

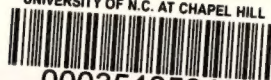
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STATE OF NORTH CAROLINA

1973

Session Laws and Resolutions

PASSED BY THE

1973 GENERAL ASSEMBLY

AT ITS

FIRST SESSION

HELD IN THE CITY OF RALEIGH

BEGINNING ON

WEDNESDAY, THE TENTH DAY OF JANUARY, A.D. 1973

PUBLISHED BY AUTHORITY

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STATE OF NORTH CAROLINA

PRESIDING OFFICERS OF THE GENERAL ASSEMBLY 1973

JAMES B. HUNT, JR. (D) ..President of the Senate.....Wilson
JAMES E. RAMSEY (D)Speaker of the House of Representatives..Person

EXECUTIVE DEPARTMENT

(Offices established by the Constitution, filled by
election, and constituting the Council of State)

*JAMES E. HOLSHOUSER, JR.GovernorWatauga
*JAMES B. HUNT, JR.Lt. GovernorWilson
*THAD EURESecretary of StateHertford
HENRY L. BRIDGESAuditorGuilford
EDWIN GILLTreasurerScotland
CRAIG PHILLIPSSuperintendent of
Public InstructionGuilford
*ROBERT MORGANAttorney GeneralHarnett
JAMES A. GRAHAMCommissioner of
AgricultureRowan
W. C. CREELCommissioner of Labor
JOHN RANDOLPH INGRAMCommissioner of Insurance ...Randolph
*Renders Direct Services to the General Assembly.

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GENERAL ASSEMBLY 1973

SENATE OFFICERS

Name	Position	Address
JAMES B. HUNT, JR.	President	Lucama
GORDON P. ALLEN	President pro-tem	Roxboro
ROY ROWE	Principal Clerk	Burgaw
W. EUGENE SIMMONS	Reading Clerk	Tarboro
BROOKS W. POOLE	Sergeant-at-Arms	Raleigh

SENATORS

DISTRICT	NAME	COUNTY	ADDRESS
1	PHILIP P. GODWIN	Gates	Gatesville
1	J. J. HARRINGTON	Bertie	Lewiston
2	D. LIVINGSTONE STALLINGS	Craven	New Bern
3	WILLIAM D. MILLS	Onslow	Maysville
4	GEORGE ROUNTREE, III (R)	New Hanover	Wilmington
5	HAROLD W. HARDISON	Lenoir	Deep Run
6	JULIAN R. ALLSBROOK	Halifax	Roanoke Rapids
6	VERNON E. WHITE	Pitt	Winterville
7	DALLAS L. ALFORD, JR.	Nash	Rocky Mount
7	J. RUSSELL KIRBY	Wilson	Wilson
8	THOMAS E. STRICKLAND	Wayne	Goldsboro
9	WILLARD J. BLANCHARD (R)	Sampson	Salemberg
10	JOHN T. HENLEY	Cumberland	Hope Mills
10	JOE B. RAYNOR, JR.	Cumberland	Fayetteville
11	ARTHUR W. WILLIAMSON	Columbus	Chadbourn
12	LUTHER J. BRITT, JR.	Robeson	Lumberton
13	GORDON P. ALLEN	Person	Roxboro
13	KENNETH C. ROYALL, JR.	Durham	Durham
14	ROBERT J. BARKER (R)	Wake	Apex
14	BOBBY L. BARKER	Wake	Raleigh
14	WILLIAM W. STATON	Lee	Sanford
15	FRED FOLGER, JR.	Surry	Mount Airy
15	WESLEY D. WEBSTER	Rockingham	Madison
16	A. B. COLEMAN, JR.	Orange	Hillsborough
16	WILLIAM P. SAUNDERS	Moore	Southern Pines
17	CHARLES B. DEANE, JR.	Richmond	Rockingham
17	JAMES B. GARRISON	Stanly	Albemarle
18	RALPH H. SCOTT	Alamance	Haw River
19	C. COOLIDGE MURROW (R)	Guilford	High Point
19	LYNWOOD SMITH	Guilford	High Point
19	MCNEILL SMITH	Guilford	Greensboro
20	HARRY BAGNAL (R)	Forsyth	Winston-Salem
20	HAMILTON C. HORTON (R)	Forsyth	Winston-Salem
21	MALCOLM W. BUTNER (R)	Rowan	Salisbury
21	ROBERT VANCE SOMERS (R)	Rowan	Salisbury
22	CY N. BAHAKEL	Mecklenburg	Charlotte
22	EDDIE KNOX	Mecklenburg	Charlotte
22	HERMAN A. MOORE	Mecklenburg	Charlotte
22	MICHAEL P. MULLINS (R)	Mecklenburg	Charlotte
23	J. REID POOVEY (R)	Catawba	Hickory
23	KENNEDY H. SHARPE (R)	Alexander	Hiddenite
24	JIM F. HUGHES (R)	Avery	Linville
24	DONALD R. KINCAID (R)	Caldwell	Lenoir
25	W. K. MAUNEY, JR.	Cleveland	Kings Mountain
25	MARSHALL A. RAUCH	Gaston	Gastonia
25	JACK L. RHYNE	Gaston	Belmont
26	I. C. CRAWFORD	Buncombe	Asheville
26	LAMAR GUDGER	Buncombe	Asheville
27	CHARLES H. TAYLOR (R)	Transylvania	Brevard
27	MRS. ELIZABETH ANN WILKIE (R)	Henderson	Fletcher

HOUSE OFFICERS

Name	Position	Address
JAMES E. RAMSEY	Speaker	Roxboro
WILLIAM T. WATKINS	Speaker pro-tem	Oxford
MRS. JO ANN SMITH	Principal Clerk	Raleigh
SAM J. BURROW, JR.	Reading Clerk	Asheboro
ARCHIE T. LANE, SR.	Sergeant-at-Arms	Hertford

REPRESENTATIVES

DISTRICT	NAME	COUNTY	ADDRESS
1	W. STANFORD WHITE	Dare	Manns Harboro
1	VERNON G. JAMES	Pasquotank	Elizabeth City
2	W. R. ROBERSON, JR.	Beaufort	Washington
3	CHRIS S. BARKER, JR.	Craven	New Bern
3	JOE L. BRIGHT	Craven	Vanceboro
3	DANIEL T. LILLEY	Lenoir	Kinston
4	RICHARD S. JAMES	Onslow	Jacksonville
4	RONALD EARL MASON	Carteret	Beaufort
4	J. F. MOHN	Onslow	Richlands
5	ROBERTS H. JERNIGAN, JR.	Hertford	Ahoskie
5	J. GUY REVELLE, SR.	Northampton	Conway
6	J. A. EVERETT	Martin	Palmyra
6	C. KITCHIN JOSEY	Halifax	Scotland Neck
7	A. HARTWELL CAMPBELL	Wilson	Wilson
7	JOHN ED DAVENPORT	Nash	Nashville
7	LARRY P. EAGLES	Edgecombe	Tarboro
7	JULIAN B. FENNER	Nash	Rocky Mount
8	SAM D. BUNDY	Pitt	Farmville
8	H. HORTON ROUNTREE	Pitt	Greenville
9	MRS. JOHN B. CHASE	Wayne	Eureka
9	WILLIAM P. KEMP, JR.	Wayne	Goldsboro
10	T. J. BAKER	Duplin	Wallace
11	THOMAS J. HARRELSON (R)	Brunswick	Southport
12	B. D. SCHWARTZ	New Hanover	Wilmington
12	S. THOMAS RHODES (R)	New Hanover	Wilmington
13	JAMES E. RAMSEY	Person	Roxboro
13	BOBBY W. ROGERS	Vance	Henderson
13	WILLIAM T. WATKINS	Granville	Oxford
14	J. M. GARDNER	Johnston	Smithfield
14	BARNEY P. WOODARD	Johnston	Princeton
15	ROBERT L. FARMER	Wake	Raleigh
15	SAMUEL H. JOHNSON	Wake	Raleigh
15	WARD PURRINGTON (R)	Wake	Raleigh
15	WADE SMITH	Wake	Raleigh
15	HOWARD F. TWIGGS	Wake	Raleigh
15	ROBERT W. WYNNE	Wake	Raleigh
16	H. M. MICHAUX, JR.	Durham	Durham
16	GEORGE W. MILLER, JR.	Durham	Durham
16	WILLIS P. WHICHARD	Durham	Durham
17	EDWARD S. HOLMES	Chatham	Pittsboro
17	MRS. PATRICIA STANFORD HUNT	Orange	Chapel Hill
18	GERALD ARNOLD	Harnett	Lillington
18	JIMMY L. LOVE	Lee	Sanford
19	JAMES C. GREEN	Bladen	Clarkton
19	R. C. SOLES, JR.	Columbus	Tabor City
19	C. GRAHAM TART	Sampson	Clinton
20	NORWOOD E. BRYAN, JR.	Cumberland	Fayetteville
20	SNEED HIGH	Cumberland	Fayetteville
20	GLENN R. JERNIGAN	Cumberland	Fayetteville
20	MRS. LURA TALLY	Cumberland	Fayetteville
20	HENRY M. TYSON	Cumberland	Fayetteville
21	JOY J. JOHNSON	Robeson	Fairmont
21	GUS SPEROS	Robeson	Maxton
21	*FRANK S. WHITE	Robeson	Pembroke
22	DAVID BLACKWELL	Rockingham	Reidsville
22	W. S. HARRIS, JR.	Alamance	Graham
22	JAMES E. LONG	Alamance	Burlington
22	HOMER E. WRIGHT, JR.	Rockingham	Eden

*Died March 10, 1973. Succeeded by Henry Ward Oxendine, Pembroke

DISTRICT	NAME	COUNTY	ADDRESS
23	HENRY E. FRYE	Guilford	Greensboro
23	THOMAS GILMORE	Guilford	Greensboro
23	MARGARET KEESEE (R)	Guilford	Greensboro
23	ROBERT ODELL PAYNE (R)	Guilford	Greensboro
23	C. W. PHILLIPS	Guilford	Greensboro
23	THOMAS B. SAWYER	Guilford	Greensboro
23	C. E. WEBB	Guilford	Greensboro
24	C. ROBY GARNER (R)	Randolph	Asheboro
24	W. FRANK REDDING, III (R)	Randolph	Asheboro
25	T. CLYDE AUMAN	Moore	West End
26	FOYLE HIGHTOWER, JR.	Anson	Wadesboro
27	THOMAS B. HUNTER	Richmond	Rockingham
28	CLYDE R. GREENE (R)	Watauga	Boone
28	MARSHALL HALL (R)	Stokes	King
28	WILLIAM S. HIATT (R)	Surry	Mount Airy
29	E. LAWRENCE DAVIS	Forsyth	Winston-Salem
29	FRED S. HUTCHINS, JR. (R)	Forsyth	Winston-Salem
29	C. DEMPSEY McDANIEL (R)	Forsyth	Kernersville
29	E. M. MCKNIGHT (R)	Forsyth	Clemmons
29	EDWARD L. POWELL (R)	Forsyth	Winston-Salem
30	GILBERT LEE BOGER (R)	Davie	Mocksville
30	JOE H. HEGE, JR. (R)	Davidson	Lexington
30	JIM MASHBURN (R)	Davidson	Lexington
31	AUSTIN A. MITCHELL (R)	Rowan	Kannapolis
31	SAMUEL KENNETH OWEN (R)	Rowan	Salisbury
32	RICHARD LANE BROWN, JR, III	Stanly	Norwood
33	DWIGHT W. QUINN	Cabarrus	Kannapolis
33	ART THOMAS	Cabarrus	Concord
33	MRS. FRANCES F. TOMLIN (R)	Cabarrus	Concord
34	JOHN WALTER BROWN (R)	Wilkes	Elkin
34	JETER L. HAYNES (R)	Yadkin	Jonesville
34	WILLIAM E. STEVENS (R)	Caldwell	Lenoir
35	J. P. HUSKINS	Iredell	Statesville
35	HOMER B. TOLBERT (R)	Iredell	Cleveland
36	MRS. MARILYN R. BISSELL (R)	Mecklenburg	Charlotte
36	LAURENCE A. COBB (R)	Mecklenburg	Charlotte
36	MRS. JO GRAHAM FOSTER	Mecklenburg	Charlotte
36	DAVID D. JORDAN (R)	Mecklenburg	Charlotte
36	CRAIG LAWING	Mecklenburg	Charlotte
36	MRS. CAROLYN MATHIS (R)	Mecklenburg	Charlotte
36	ROY SPOON (R)	Mecklenburg	Charlotte
36	BEN TISON	Mecklenburg	Charlotte
37	ROBERT Q. BEARD (R)	Catawba	Newton
37	G. HUNTER WARLICK (R)	Catawba	Hickory
38	E. GRAHAM BELL	Gaston	Gastonia
38	DAVID W. BUMGARDNER, JR.	Gaston	Belmont
38	JOHN R. GAMBLE, JR.	Lincoln	Lincolnton
38	CARL J. STEWART, JR.	Gaston	Gastonia
39	WILLIAM M. FULTON (R)	Burke	Morganton
39	LLOYD HISE, JR. (R)	Mitchell	Spruce Pine
40	ROBERT Z. FALLS	Cleveland	Shelby
40	JOHN J. HUNT	Cleveland	Lattimore
40	ROBERT A. JONES	Rutherford	Forest City
41	GLENN A. MORRIS	McDowell	Marion
42	FRED R. DORSEY (R)	Henderson	East Flat Rock
43	CLAUDE DeBRUHL	Buncombe	Candler
43	HERSCHEL S. HARKINS	Buncombe	Asheville
43	HERBERT L. HYDE	Buncombe	Asheville
43	JOHN S. STEVENS	Buncombe	Asheville
44	ERNEST B. MESSER	Haywood	Canton
44	LISTON B. RAMSEY	Madison	Marshall
45	W. P. BRADLEY (R)	Clay	Hayesville

LEGISLATIVE SERVICES COMMISSION

SENATOR GORDON P. ALLEN, *Co-Chairman*

SPEAKER JAMES E. RAMSEY, *Co-Chairman*

SEN. I. C. CRAWFORD	REP. NORWOOD BRYAN, JR.
SEN. FRED FOLGER, JR.	REP. DAVID W. BUMGARDNER, JR.
SEN. PHILIP P. GODWIN	REP. CLAUDE DEBRUHL
SEN. JOHN T. HENLEY	REP. LISTON B. RAMSEY
SEN. H. EDWARD KNOX	REP. H. HORTON ROUNTREE
SEN. KENNETH C. ROYALL, JR.	REP. WILLIAM T. WATKINS

LEGISLATIVE SERVICES STAFF

CLYDE L. BALL.....	Legislative Services Officer
WILLIAM H. POTTER, JR.....	Director of Research
MERCER DOTY.....	Director of Fiscal Research
BROOKS W. POOLE.....	Legislative Building Superintendent

CONSTITUTION
OF THE
State of North Carolina

PREAMBLE

We, the people of the State of North Carolina, grateful to Almighty God, the Sovereign Ruler of Nations, for the preservation of the American Union and the existence of our civil, political and religious liberties, and acknowledging our dependence upon Him for the continuance of those blessings to us and our posterity, do, for the more certain security thereof and for the better government of this State, ordain and establish this Constitution.

ARTICLE I

DECLARATION OF RIGHTS

That the great, general, and essential principles of liberty and free government may be recognized and established, and that the relations of this State to the Union and government of the United States and those of the people of this State to the rest of the American people may be defined and affirmed, we do declare that:

SECTION 1. *The equality and rights of persons.* We hold it to be self-evident that all persons are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, the enjoyment of the fruits of their own labor, and the pursuit of happiness.

SEC. 2. *Sovereignty of the people.* All political power is vested in and derived from the people; all government of right originates from the people, is founded upon their will only, and is instituted solely for the good of the whole.

SEC. 3. *Internal government of the State.* The people of this State have the inherent, sole, and exclusive right of regulating the internal government and police thereof, and of altering or abolishing their Constitution and form of government whenever it may be necessary to their safety and happiness; but every such right shall be exercised in pursuance of law and consistently with the Constitution of the United States.

SEC. 4. *Secession prohibited.* This State shall ever remain a member of the American Union; the people thereof are part of the American nation; there is no right on the part of this State to secede; and all attempts, from whatever source or upon whatever pretext, to dissolve this Union or to sever this Nation, shall be resisted with the whole power of the State.

SEC. 5. *Allegiance to the United States.* Every citizen of this State owes paramount allegiance to the Constitution and government of the United States, and no law or ordinance of the State in contravention or subversion thereof can have any binding force.

SEC. 6. *Separation of powers.* The legislative, executive, and supreme judicial powers of the State government shall be forever separate and distinct from each other.

SEC. 7. *Suspending laws.* All power of suspending laws or the execution of laws by any authority, without the consent of the representatives of the people, is injurious to their rights and shall not be exercised.

SEC. 8. *Representation and taxation.* The people of this State shall not be taxed or made subject to the payment of any impost or duty without the consent of themselves or their representatives in the General Assembly, freely given.

SEC. 9. *Frequent elections.* For redress of grievances and for amending and strengthening the laws, elections shall be often held.

SEC. 10. *Free elections.* All elections shall be free.

SEC. 11. *Property qualifications.* As political rights and privileges are not dependent upon or modified by property, no property qualification shall affect the right to vote or hold office.

SEC. 12. *Right of assembly and petition.* The people have a right to assemble together to consult for their common good, to instruct their representatives, and to apply to the General Assembly for redress of grievances; but secret political societies are dangerous to the liberties of a free people and shall not be tolerated.

SEC. 13. *Religious liberty.* All persons have a natural and inalienable right to worship Almighty God according to the dictates of their own consciences, and no human authority shall, in any case whatever, control or interfere with the rights of conscience.

SEC. 14. *Freedom of speech and press.* Freedom of speech and of the press are two of the great bulwarks of liberty and therefore shall never be restrained, but every person shall be held responsible for their abuse.

SEC. 15. *Education.* The people have a right to the privilege of education, and it is the duty of the State to guard and maintain that right.

SEC. 16. *Ex post facto laws.* Retrospective laws, punishing acts committed before the existence of such laws and by them only declared criminal, are oppressive, unjust, and incompatible with liberty, and therefore no ex post facto law shall be enacted. No law taxing retrospectively sales, purchases, or other acts previously done shall be enacted.

SEC. 17. *Slavery and involuntary servitude.* Slavery is forever prohibited. Involuntary servitude, except as a punishment for crime whereof the parties have been adjudged guilty, is forever prohibited.

SEC. 18. *Courts shall be open.* All courts shall be open; every person for an injury done him in his lands, goods, person, or reputation shall have remedy by due course of law; and right and justice shall be administered without favor, denial, or delay.

SEC. 19. *Law of the land; equal protection of the laws.* No person shall be taken, imprisoned, or disseized of his freehold, liberties, or privileges, or

outlawed, or exiled, or in any manner deprived of his life, liberty, or property, but by the law of the land. No person shall be denied the equal protection of the laws; nor shall any person be subjected to discrimination by the State because of race, color, religion, or national origin.

SEC. 20. *General warrants.* General warrants, whereby any officer or other person may be commanded to search suspected places without evidence of the act committed, or to seize any person or persons not named, whose offense is not particularly described and supported by evidence, are dangerous to liberty and shall not be granted.

SEC. 21. *Inquiry into restraints on liberty.* Every person restrained of his liberty is entitled to a remedy to inquire into the lawfulness thereof, and to remove the restraint if unlawful, and that remedy shall not be denied or delayed. The privilege of the writ of habeas corpus shall not be suspended.

SEC. 22. *Modes of prosecution.* Except in misdemeanor cases initiated in the District Court Division, no person shall be put to answer any criminal charge but by indictment, presentment, or impeachment. But any person, when represented by counsel, may, under such regulations as the General Assembly shall prescribe, waive indictment in noncapital cases.

SEC. 23. *Rights of accused.* In all criminal prosecutions, every person charged with crime has the right to be informed of the accusation and to confront the accusers and witnesses with other testimony, and to have counsel for defense, and not be compelled to give self-incriminating evidence, or to pay costs, jail fees, or necessary witness fees of the defense, unless found guilty.

SEC. 24. *Right of jury trial in criminal cases.* No person shall be convicted of any crime but by the unanimous verdict of a jury in open court. The General Assembly may, however, provide for other means of trial for misdemeanors, with the right of appeal for trial de novo.

SEC. 25. *Right of jury trial in civil cases.* In all controversies at law respecting property, the ancient mode of trial by jury is one of the best securities of the rights of the people, and shall remain sacred and inviolable.

SEC. 26. *Jury service.* No person shall be excluded from jury service on account of sex, race, color, religion, or national origin.

SEC. 27. *Bail, fines, and punishments.* Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishments inflicted.

SEC. 28. *Imprisonment for debt.* There shall be no imprisonment for debt in this State, except in cases of fraud.

SEC. 29. *Treason against the State.* Treason against the State shall consist only of levying war against it or adhering to its enemies by giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court. No conviction of treason or attainder shall work corruption of blood or forfeiture.

SEC. 30. *Militia and the right to bear arms.* A well regulated militia being necessary to the security of a free State, the right of the people to keep

and bear arms shall not be infringed; and, as standing armies in time of peace are dangerous to liberty, they shall not be maintained, and the military shall be kept under strict subordination to, and governed by, the civil power. Nothing herein shall justify the practice of carrying concealed weapons, or prevent the General Assembly from enacting penal statutes against that practice.

SEC. 31. *Quartering of soldiers.* No soldier shall in time of peace be quartered in any house without the consent of the owner, nor in time of war but in a manner prescribed by law.

SEC. 32. *Exclusive emoluments.* No person or set of persons is entitled to exclusive or separate emoluments or privileges from the community but in consideration of public services.

SEC. 33. *Hereditary emoluments and honors.* No hereditary emoluments, privileges, or honors shall be granted or conferred in this State.

SEC. 34. *Perpetuities and monopolies.* Perpetuities and monopolies are contrary to the genius of a free state and shall not be allowed.

SEC. 35. *Recurrence to fundamental principles.* A frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty.

SEC. 36. *Other rights of the people.* The enumeration of rights in this Article shall not be construed to impair or deny others retained by the people.

ARTICLE II

LEGISLATIVE

SECTION 1. *Legislative power.* The legislative power of the State shall be vested in the General Assembly, which shall consist of a Senate and a House of Representatives.

SEC. 2. *Number of Senators.* The Senate shall be composed of 50 Senators, biennially chosen by ballot.

SEC. 3. *Senate districts; apportionment of Senators.* The Senators shall be elected from districts. The General Assembly, at the first regular session convening after the return of every decennial census of population taken by order of Congress, shall revise the senate districts and the apportionment of Senators among those districts, subject to the following requirements:

(1) Each Senator shall represent, as nearly as may be, an equal number of inhabitants, the number of inhabitants that each Senator represents being determined for this purpose by dividing the population of the district that he represents by the number of Senators apportioned to that district;

(2) Each senate district shall at all times consist of contiguous territory;

(3) No county shall be divided in the formation of a senate district;

(4) When established, the senate districts and the apportionment of Senators shall remain unaltered until the return of another decennial census of population taken by order of Congress.

SEC. 4. *Number of Representatives.* The House of Representatives shall be composed of 120 Representatives, biennially chosen by ballot.

SEC. 5. *Representative districts; apportionment of Representatives.* The Representatives shall be elected from districts. The General Assembly, at the first regular session convening after the return of every decennial census of population taken by order of Congress, shall revise the representative districts and the apportionment of Representatives among those districts, subject to the following requirements:

(1) Each Representative shall represent, as nearly as may be, an equal number of inhabitants, the number of inhabitants that each Representative represents being determined for this purpose by dividing the population of the district that he represents by the number of Representatives apportioned to that district;

(2) Each representative district shall at all times consist of contiguous territory;

(3) No county shall be divided in the formation of a representative district;

(4) When established, the representative districts and the apportionment of Representatives shall remain unaltered until the return of another decennial census of population taken by order of Congress.

SEC. 6. *Qualifications for Senator.* Each Senator, at the time of his election, shall be not less than 25 years of age, shall be a qualified voter of the State, and shall have resided in the State as a citizen for two years and in the district for which he is chosen for one year immediately preceding his election.

SEC. 7. *Qualifications for Representative.* Each Representative, at the time of his election, shall be a qualified voter of the State, and shall have resided in the district for which he is chosen for one year immediately preceding his election.

SEC. 8. *Elections.* The election for members of the General Assembly shall be held for the respective districts in 1972 and every two years thereafter, at the places and on the day prescribed by law.

SEC. 9. *Term of office.* The term of office of Senators and Representatives shall commence at the time of their election.

SEC. 10. *Vacancies.* Every vacancy occurring in the membership of the General Assembly by reason of death, resignation, or other cause shall be filled in the manner prescribed by law.

SEC. 11. *Sessions.*

(1) *Regular sessions.* The General Assembly shall meet in regular session in 1973 and every two years thereafter on the day prescribed by law.

Neither house shall proceed upon public business unless a majority of all of its members are actually present.

(2) *Extra sessions on legislative call.* The President of the Senate and the Speaker of the House of Representatives shall convene the General Assembly in extra session by their joint proclamation upon receipt by the President of the Senate of written requests therefor signed by three-fifths of all the members of the Senate and upon receipt by the Speaker of the House of Representatives of written requests therefor signed by three-fifths of all the members of the House of Representatives.

SEC. 12. *Oath of members.* Each member of the General Assembly, before taking his seat, shall take an oath or affirmation that he will support the Constitution and laws of the United States and the Constitution of the State of North Carolina, and will faithfully discharge his duty as a member of the Senate or House of Representatives.

SEC. 13. *President of the Senate.* The Lieutenant Governor shall be President of the Senate and shall preside over the Senate, but shall have no vote unless the Senate is equally divided.

SEC. 14. *Other officers of the Senate.*

(1) *President Pro Tempore — succession to presidency.* The Senate shall elect from its membership a President Pro Tempore, who shall become President of the Senate upon the failure of the Lieutenant Governor-elect to qualify, or upon succession by the Lieutenant Governor to the office of Governor, or upon the death, resignation, or removal from office of the President of the Senate, and who shall serve until the expiration of his term of office as Senator.

(2) *President Pro Tempore — temporary succession.* During the physical or mental incapacity of the President of the Senate to perform the duties of his office, or during the absence of the President of the Senate, the President Pro Tempore shall preside over the Senate.

(3) *Other officers.* The Senate shall elect its other officers.

SEC. 15. *Officers of the House of Representatives.* The House of Representatives shall elect its Speaker and other officers.

SEC. 16. *Compensation and allowances.* The members and officers of the General Assembly shall receive for their services the compensation and allowances prescribed by law. An increase in the compensation or allowances of members shall become effective at the beginning of the next regular session of the General Assembly following the session at which it was enacted.

SEC. 17. *Journals.* Each house shall keep a journal of its proceedings, which shall be printed and made public immediately after the adjournment of the General Assembly.

SEC. 18. *Protests.* Any member of either house may dissent from and protest against any act or resolve which he may think injurious to the public

or to any individual, and have the reasons of his dissent entered on the journal.

SEC. 19. *Record votes.* Upon motion made in either house and seconded by one fifth of the members present, the yeas and nays upon any question shall be taken and entered upon the journal.

SEC. 20. *Powers of the General Assembly.* Each house shall be judge of the qualifications and elections of its own members, shall sit upon its own adjournment from day to day, and shall prepare bills to be enacted into laws. The two houses may jointly adjourn to any future day or other place. Either house may, of its own motion, adjourn for a period not in excess of three days.

SEC. 21. *Style of the acts.* The style of the acts shall be: "The General Assembly of North Carolina enacts:".

SEC. 22. *Action on bills.* All bills and resolutions of a legislative nature shall be read three times in each house before they become laws, and shall be signed by the presiding officers of both houses.

SEC. 23. *Revenue bills.* No law shall be enacted to raise money on the credit of the State, or to pledge the faith of the State directly or indirectly for the payment of any debt, or to impose any tax upon the people of the State, or to allow the counties, cities, or towns to do so, unless the bill for the purpose shall have been read three several times in each house of the General Assembly and passed three several readings, which readings shall have been on three different days, and shall have been agreed to by each house respectively, and unless the yeas and nays on the second and third readings of the bill shall have been entered on the journal.

SEC. 24. *Limitations on local, private, and special legislation.*

(1) *Prohibited subjects.* The General Assembly shall not enact any local, private, or special act or resolution:

- (a) Relating to health, sanitation, and the abatement of nuisances;
- (b) Changing the names of cities, towns, and townships;
- (c) Authorizing the laying out, opening, altering, maintaining, or discontinuing of highways, streets, or alleys;
- (d) Relating to ferries or bridges;
- (e) Relating to non-navigable streams;
- (f) Relating to cemeteries;
- (g) Relating to the pay of jurors;
- (h) Erecting new townships, or changing township lines, or establishing or changing the lines of school districts;
- (i) Remitting fines, penalties, and forfeitures, or refunding moneys legally paid into the public treasury;
- (j) Regulating labor, trade, mining, or manufacturing;

- (k) Extending the time for the levy or collection of taxes or otherwise relieving any collector of taxes from the due performance of his official duties or his sureties from liability;
- (l) Giving effect to informal wills and deeds;
- (m) Granting a divorce or securing alimony in any individual case;
- (n) Altering the name of any person, or legitimating any person not born in lawful wedlock, or restoring to the rights of citizenship any person convicted of a felony.

(2) *Repeals.* Nor shall the General Assembly enact any such local, private, or special act by partial repeal of a general law; but the General Assembly may at any time repeal local, private, or special laws enacted by it.

(3) *Prohibited acts void.* Any local, private, or special act or resolution enacted in violation of the provisions of this Section shall be void.

(4) *General laws.* The General Assembly may enact general laws regulating the matters set out in this Section.

ARTICLE III

EXECUTIVE

SECTION 1. *Executive power.* The executive power of the State shall be vested in the Governor.

SEC. 2. *Governor and Lieutenant Governor: election, term, and qualifications.*

(1) *Election and term.* The Governor and Lieutenant Governor shall be elected by the qualified voters of the State in 1972 and every four years thereafter, at the same time and places as members of the General Assembly are elected. Their term of office shall be four years and shall commence on the first day of January next after their election and continue until their successors are elected and qualified.

(2) *Qualifications.* No person shall be eligible for election to the office of Governor or Lieutenant Governor unless, at the time of his election, he shall have attained the age of 30 years and shall have been a citizen of the United States for five years and a resident of this State for two years immediately preceding his election. No person elected to either of these two offices shall be eligible for election to the next succeeding term of the same office.

SEC. 3. *Succession to office of Governor.*

(1) *Succession as Governor.* The Lieutenant Governor-elect shall become Governor upon the failure of the Governor-elect to qualify. The Lieutenant Governor shall become Governor upon the death, resignation, or removal from office of the Governor. The further order of succession to the office of Governor shall be prescribed by law. A successor shall serve for the remainder of the term of the Governor whom he succeeds and until a new Governor is elected and qualified.

(2) *Succession as Acting Governor.* During the absence of the Governor from the State, or during the physical or mental incapacity of the Governor to perform the duties of his office, the Lieutenant Governor shall be Acting Governor. The further order of succession as Acting Governor shall be prescribed by law.

(3) *Physical incapacity.* The Governor may, by a written statement filed with the Attorney General, declare that he is physically incapable of performing the duties of his office, and may thereafter in the same manner declare that he is physically capable of performing the duties of his office.

(4) *Mental incapacity.* The mental incapacity of the Governor to perform the duties of his office shall be determined only by joint resolution adopted by a vote of two-thirds of all the members of each house of the General Assembly. Thereafter, the mental capacity of the Governor to perform the duties of his office shall be determined only by joint resolution adopted by a vote of a majority of all the members of each house of the General Assembly. In all cases, the General Assembly shall give the Governor such notice as it may deem proper and shall allow him an opportunity to be heard before a joint session of the General Assembly before it takes final action. When the General Assembly is not in session, the Council of State, a majority of its members concurring, may convene it in extra session for the purpose of proceeding under this paragraph.

(5) *Impeachment.* Removal of the Governor from office for any other cause shall be by impeachment.

SEC. 4. *Oath of office for Governor.* The Governor, before entering upon the duties of his office, shall, before any Justice of the Supreme Court, take an oath or affirmation that he will support the Constitution and laws of the United States and of the State of North Carolina, and that he will faithfully perform the duties pertaining to the office of Governor.

SEC. 5. *Duties of Governor.*

(1) *Residence.* The Governor shall reside at the seat of government of this State.

(2) *Information to General Assembly.* The Governor shall from time to time give the General Assembly information of the affairs of the State and recommend to their consideration such measures as he shall deem expedient.

(3) *Budget.* The Governor shall prepare and recommend to the General Assembly a comprehensive budget of the anticipated revenue and proposed expenditures of the State for the ensuing fiscal period. The budget as enacted by the General Assembly shall be administered by the Governor.

(4) *Execution of laws.* The Governor shall take care that the laws be faithfully executed.

(5) *Commander in Chief.* The Governor shall be Commander in Chief of the military forces of the State except when they shall be called into the service of the United States.

(6) *Clemency.* The Governor may grant reprieves, commutations, and pardons, after conviction, for all offenses (except in cases of impeachment),

upon such conditions as he may think proper, subject to regulations prescribed by law relative to the manner of applying for pardons. The terms reprieves, commutations, and pardons shall not include paroles.

(7) *Extra sessions.* The Governor may, on extraordinary occasions, by and with the advice of the Council of State, convene the General Assembly in extra session by his proclamation, stating therein the purpose or purposes for which they are thus convened.

(8) *Appointments.* The Governor shall nominate and by and with the advice and consent of a majority of the Senators appoint all officers whose appointments are not otherwise provided for.

(9) *Information.* The Governor may at any time require information in writing from the head of any administrative department or agency upon any subject relating to the duties of his office.

(10) *Administrative reorganization.* The General Assembly shall prescribe the functions, powers, and duties of the administrative departments and agencies of the State and may alter them from time to time, but the Governor may make such changes in the allocation of offices and agencies and in the allocation of those functions, powers, and duties as he considers necessary for efficient administration. If those changes affect existing law, they shall be set forth in executive orders, which shall be submitted to the General Assembly not later than the sixtieth calendar day of its session, and shall become effective and shall have the force of law upon adjournment sine die of the session, unless specifically disapproved by resolution of either house of the General Assembly or specifically modified by joint resolution of both houses of the General Assembly.

SEC. 6. *Duties of the Lieutenant Governor.* The Lieutenant Governor shall be President of the Senate, but shall have no vote unless the Senate is equally divided. He shall perform such additional duties as the General Assembly or the Governor may assign to him. He shall receive the compensation and allowances prescribed by law.

SEC. 7. *Other elective officers.*

(1) *Officers.* A Secretary of State, an Auditor, a Treasurer, a Superintendent of Public Instruction, an Attorney General, a Commissioner of Agriculture, a Commissioner of Labor, and a Commissioner of Insurance shall be elected by the qualified voters of the State in 1972 and every four years thereafter, at the same time and places as members of the General Assembly are elected. Their term of office shall be four years and shall commence on the first day of January next after their election and continue until their successors are elected and qualified.

(2) *Duties.* Their respective duties shall be prescribed by law.

(3) *Vacancies.* If the office of any of these officers is vacated by death, resignation, or otherwise, it shall be the duty of the Governor to appoint another to serve until his successor is elected and qualified. Every such vacancy shall be filled by election at the first election for members of the General Assembly that occurs more than 30 days after the vacancy has taken place, and the person chosen shall hold the office for the remainder

of the unexpired term fixed in this Section. When a vacancy occurs in the office of any of the officers named in this Section and the term expires on the first day of January succeeding the next election for members of the General Assembly, the Governor shall appoint to fill the vacancy for the unexpired term of the office.

(4) *Interim officers.* Upon the occurrence of a vacancy in the office of any one of these officers for any of the causes stated in the preceding paragraph, the Governor may appoint an interim officer to perform the duties of that office until a person is appointed or elected pursuant to this Section to fill the vacancy and is qualified.

(5) *Acting officers.* During the physical or mental incapacity of any one of these officers to perform the duties of his office, as determined pursuant to this Section, the duties of his office shall be performed by an acting officer who shall be appointed by the Governor.

(6) *Determination of incapacity.* The General Assembly shall by law prescribe with respect to those officers, other than the Governor, whose offices are created by this Article, procedures for determining the physical or mental incapacity of any officer to perform the duties of his office, and for determining whether an officer who has been temporarily incapacitated has sufficiently recovered his physical or mental capacity to perform the duties of his office. Removal of those officers from office for any other cause shall be by impeachment.

SEC. 8. *Council of State.* The Council of State shall consist of the officers whose offices are established by this Article.

SEC. 9. *Compensation and allowances.* The officers whose offices are established by this Article shall at stated periods receive the compensation and allowances prescribed by law, which shall not be diminished during the time for which they have been chosen.

SEC. 10. *Seal of State.* There shall be a seal of the State, which shall be kept by the Governor and used by him as occasion may require, and shall be called "The Great Seal of the State of North Carolina". All grants and commissions shall be issued in the name and by the authority of the State of North Carolina, sealed with "The Great Seal of the State of North Carolina", and signed by the Governor.

SEC. 11. *Administrative departments.* Not later than July 1, 1975, all administrative departments, agencies, and offices of the State and their respective functions, powers, and duties shall be allocated by law among and within not more than 25 principal administrative departments so as to group them as far as practicable according to major purposes. Regulatory, quasi-judicial, and temporary agencies may, but need not, be allocated within a principal department.

ARTICLE IV

JUDICIAL

SECTION 1. *Judicial power.* The judicial power of the State shall, except as provided in Section 3 of this Article, be vested in a Court for the Trial

of Impeachments and in a General Court of Justice. The General Assembly shall have no power to deprive the judicial department of any power or jurisdiction that rightfully pertains to it as a co-ordinate department of the government, nor shall it establish or authorize any courts other than as permitted by this Article.

SEC. 2. *General Court of Justice.* The General Court of Justice shall constitute a unified judicial system for purposes of jurisdiction, operation, and administration, and shall consist of an Appellate Division, a Superior Court Division, and a District Court Division.

SEC. 3. *Judicial powers of administrative agencies.* The General Assembly may vest in administrative agencies established pursuant to law such judicial powers as may be reasonably necessary as an incident to the accomplishment of the purposes for which the agencies were created. Appeals from administrative agencies shall be to the General Court of Justice.

SEC. 4. *Court for the Trial of Impeachments.* The House of Representatives solely shall have the power of impeaching. The Court for the Trial of Impeachments shall be the Senate. When the Governor or Lieutenant Governor is impeached, the Chief Justice shall preside over the Court. A majority of the members shall be necessary to a quorum, and no person shall be convicted without the concurrence of two-thirds of the Senators present. Judgment upon conviction shall not extend beyond removal from and disqualification to hold office in this State, but the party shall be liable to indictment and punishment according to law.

SEC. 5. *Appellate division.* The Appellate Division of the General Court of Justice shall consist of the Supreme Court and the Court of Appeals.

SEC. 6. *Supreme Court.*

(1) *Membership.* The Supreme Court shall consist of a Chief Justice and six Associate Justices, but the General Assembly may increase the number of Associate Justices to not more than eight. In the event the Chief Justice is unable, on account of absence or temporary incapacity, to perform any of the duties placed upon him, the senior Associate Justice available may discharge those duties.

(2) *Sessions of the Supreme Court.* The sessions of the Supreme Court shall be held in the City of Raleigh unless otherwise provided by the General Assembly.

SEC. 7. *Court of Appeals.* The structure, organization, and composition of the Court of Appeals shall be determined by the General Assembly. The Court shall have not less than five members, and may be authorized to sit in divisions, or other than en banc. Sessions of the Court shall be held at such times and places as the General Assembly may prescribe.

SEC. 8. *Retirement of Justices and Judges.* The General Assembly shall provide by general law for the retirement of Justices and Judges of the General Court of Justice, and may provide for the temporary recall of any retired Justice or Judge to serve on the court from which he was retired. The General Assembly shall also prescribe maximum age limits for service as a Justice or Judge.

SEC. 9. *Superior Courts.*

(1) *Superior Court districts.* The General Assembly shall, from time to time, divide the State into a convenient number of Superior Court judicial districts and shall provide for the election of one or more Superior Court Judges for each district. Each regular Superior Court Judge shall reside in the district for which he is elected. The General Assembly may provide by general law for the selection or appointment of special or emergency Superior Court Judges not selected for a particular judicial district.

(2) *Open at all times; sessions for trial of cases.* The Superior Courts shall be open at all times for the transaction of all business except the trial of issues of fact requiring a jury. Regular trial sessions of the Superior Court shall be held at times fixed pursuant to a calendar of courts promulgated by the Supreme Court. At least two sessions for the trial of jury cases shall be held annually in each county.

(3) *Clerks.* A Clerk of the Superior Court for each county shall be elected for a term of four years by the qualified voters thereof, at the same time and places as members of the General Assembly are elected. If the office of Clerk of the Superior Court becomes vacant otherwise than by the expiration of the term, or if the people fail to elect, the senior regular resident Judge of the Superior Court serving the county shall appoint to fill the vacancy until an election can be regularly held.

SEC. 10. *District Courts.* The General Assembly shall, from time to time, divide the State into a convenient number of local court districts and shall prescribe where the District Courts shall sit, but a District Court must sit in at least one place in each county. District Judges shall be elected for each district for a term of four years, in a manner prescribed by law. When more than one District Judge is authorized and elected for a district, the Chief Justice of the Supreme Court shall designate one of the judges as Chief District Judge. Every District Judge shall reside in the district for which he is elected. For each county, the senior regular resident Judge of the Superior Court serving the county shall appoint for a term of two years, from nominations submitted by the Clerk of the Superior Court of the county, one or more Magistrates who shall be officers of the District Court. The number of District Judges and Magistrates shall, from time to time, be determined by the General Assembly. Vacancies in the office of District Judge shall be filled for the unexpired term in a manner prescribed by law. Vacancies in the office of Magistrate shall be filled for the unexpired term in the manner provided for original appointment to the office.

SEC. 11. *Assignment of Judges.* The Chief Justice of the Supreme Court, acting in accordance with rules of the Supreme Court, shall make assignments of Judges of the Superior Court and may transfer District Judges from one district to another for temporary or specialized duty. The principle of rotating Superior Court Judges among the various districts of a division is a salutary one and shall be observed. For this purpose the General Assembly may divide the State into a number of judicial divisions. Subject to the general supervision of the Chief Justice of the Supreme Court, assignment of District Judges within each local court district shall be made by the Chief District Judge.

SEC. 12. *Jurisdiction of the General Court of Justice.*

(1) *Supreme Court.* The Supreme Court shall have jurisdiction to review upon appeal any decision of the courts below, upon any matter of law or legal inference. The jurisdiction of the Supreme Court over "issues of fact" and "questions of fact" shall be the same exercised by it prior to the adoption of this Article, and the Court may issue any remedial writs necessary to give it general supervision and control over the proceedings of the other courts.

(2) *Court of Appeals.* The Court of Appeals shall have such appellate jurisdiction as the General Assembly may prescribe.

(3) *Superior Court.* Except as otherwise provided by the General Assembly, the Superior Court shall have original general jurisdiction throughout the State. The Clerks of the Superior Court shall have such jurisdiction and powers as the General Assembly shall prescribe by general law uniformly applicable in every county of the State.

(4) *District Courts; Magistrates.* The General Assembly shall, by general law uniformly applicable in every local court district of the State, prescribe the jurisdiction and powers of the District Courts and Magistrates.

(5) *Waiver.* The General Assembly may by general law provide that the jurisdictional limits may be waived in civil cases.

(6) *Appeals.* The General Assembly shall by general law provide a proper system of appeals. Appeals from Magistrates shall be heard de novo, with the right of trial by jury as defined in this Constitution and the laws of this State.

SEC. 13. *Forms of action; rules of procedure.*

(1) *Forms of Action.* There shall be in this State but one form of action for the enforcement or protection of private rights or the redress of private wrongs, which shall be denominated a civil action, and in which there shall be a right to have issues of fact tried before a jury. Every action prosecuted by the people of the State as a party against a person charged with a public offense, for the punishment thereof, shall be termed a criminal action.

(2) *Rules of procedure.* The Supreme Court shall have exclusive authority to make rules of procedure and practice for the Appellate Division. The General Assembly may make rules of procedure and practice for the Superior Court and District Court Divisions, and the General Assembly may delegate this authority to the Supreme Court. No rule of procedure or practice shall abridge substantive rights or abrogate or limit the right of trial by jury. If the General Assembly should delegate to the Supreme Court the rule-making power, the General Assembly may, nevertheless, alter, amend, or repeal any rule of procedure or practice adopted by the Supreme Court for the Superior Court or District Court Divisions.

SEC. 14. *Waiver of jury trial.* In all issues of fact joined in any court, the parties in any civil case may waive the right to have the issues determined by a jury, in which case the finding of the judge upon the facts shall have the force and effect of a verdict by a jury.

SEC. 15. *Administration.* The General Assembly shall provide for an administrative office of the courts to carry out the provisions of this Article.

SEC. 16. *Terms of office and election of Justices of the Supreme Court, Judges of the Court of Appeals, and Judges of the Superior Court.* Justices of the Supreme Court, Judges of the Court of Appeals, and regular Judges of the Superior Court shall be elected by the qualified voters and shall hold office for terms of eight years and until their successors are elected and qualified. Justices of the Supreme Court and Judges of the Court of Appeals shall be elected by the qualified voters of the State. Regular Judges of the Superior Court may be elected by the qualified voters of the State or by the voters of their respective districts, as the General Assembly may prescribe.

SEC. 17. *Removal of Judges, Magistrates and Clerks.*

(1) *Removal of Judges by the General Assembly.* Any Justice or Judge of the General Court of Justice may be removed from office for mental or physical incapacity by joint resolution of two-thirds of all the members of each house of the General Assembly. Any Justice or Judge against whom the General Assembly may be about to proceed shall receive notice thereof, accompanied by a copy of the causes alleged for his removal, at least 20 days before the day on which either house of the General Assembly shall act thereon. Removal from office by the General Assembly for any other cause shall be by impeachment.

(2) *Additional method of removal of Judges.* The General Assembly shall prescribe a procedure, in addition to impeachment and address set forth in this Section, for the removal of a Justice or Judge of the General Court of Justice for mental or physical incapacity interfering with the performance of his duties which is, or is likely to become, permanent, and for the censure and removal of a Justice or Judge of the General Court of Justice for wilful misconduct in office, wilful and persistent failure to perform his duties, habitual intemperance, conviction of a crime involving moral turpitude, or conduct prejudicial to the administration of justice that brings the judicial office into disrepute.

(3) *Removal of Magistrates.* The General Assembly shall provide by general law for the removal of Magistrates for misconduct or mental or physical incapacity.

(4) *Removal of Clerks.* Any Clerk of the Superior Court may be removed from office for misconduct or mental or physical incapacity by the senior regular resident Superior Court Judge serving the county. Any Clerk against whom proceedings are instituted shall receive written notice of the charges against him at least ten days before the hearing upon the charges. Any Clerk so removed from office shall be entitled to an appeal as provided by law.

SEC. 18. *Solicitors and solicitorial districts.*

(1) *Solicitors.* The General Assembly shall, from time to time, divide the State into a convenient number of solicitorial districts, for each of which a Solicitor shall be chosen for a term of four years by the qualified voters

thereof, at the same time and places as members of the General Assembly are elected. The Solicitor shall advise the officers of justice in his district, be responsible for the prosecution on behalf of the State of all criminal actions in the Superior Courts of his district, perform such duties related to appeals therefrom as the Attorney General may require, and perform such other duties as the General Assembly may prescribe.

(2) *Prosecution in District Court Division.* Criminal actions in the District Court Division shall be prosecuted in such manner as the General Assembly may prescribe by general law uniformly applicable in every local court district of the State.

SEC. 19. *Vacancies.* Unless otherwise provided in this Article, all vacancies occurring in the offices provided for by this Article shall be filled by appointment of the Governor, and the appointees shall hold their places until the next election for members of the General Assembly that is held more than 30 days after the vacancy occurs, when elections shall be held to fill the offices. When the unexpired term of any of the offices named in this Article of the Constitution in which a vacancy has occurred, and in which it is herein provided that the Governor shall fill the vacancy, expires on the first day of January succeeding the next election for members of the General Assembly, the Governor shall appoint to fill that vacancy for the unexpired term of the office. If any person elected or appointed to any of these offices shall fail to qualify, the office shall be appointed to, held, and filled as provided in case of vacancies occurring therein. All incumbents of these offices shall hold until their successors are qualified.

SEC. 20. *Revenues and expenses of the judicial department.* The General Assembly shall provide for the establishment of a schedule of court fees and costs which shall be uniform throughout the State within each division of the General Court of Justice. The operating expenses of the judicial department, other than compensation to process servers and other locally paid non-judicial officers, shall be paid from State funds.

SEC. 21. *Fees, salaries, and emoluments.* The General Assembly shall prescribe and regulate the fees, salaries, and emoluments of all officers provided for in this Article, but the salaries of Judges shall not be diminished during their continuance in office. In no case shall the compensation of any Judge or Magistrate be dependent upon his decision or upon the collection of costs.

ARTICLE V

NOTE: Effective July 1, 1973, this text of Article V will be superseded by the revised text which is set out at the end of this Article.

FINANCE

SECTION 1. *Capitation tax.*

(1) *Capitation tax limited.* The General Assembly may levy a capitation tax on every male inhabitant of the State over 21 and under 50 years of age,

not in excess of two dollars, and cities and towns may levy a capitation tax on persons subject to the State tax not in excess of one dollar. No other capitation tax shall be levied. The governing boards of the several counties and of the cities and towns may exempt from the capitation tax any special cases on account of poverty or infirmity.

(2) *Proceeds.* The proceeds of the State and county capitation tax shall be applied to the purposes of education and the support of the poor, but in no one fiscal year shall more than 25 per cent thereof be appropriated to the latter purpose.

SEC. 2. *State and local taxation.*

(1) *Power of taxation.* The power of taxation shall be exercised in a just and equitable manner, for public purposes only, and shall never be surrendered, suspended, or contracted away.

(2) *Classification.* Only the General Assembly shall have the power to classify property for taxation, which power shall be exercised only on a State-wide basis. No class shall be taxed except by a uniform rule, and every classification shall be made by general law uniformly applicable in every county, city and town, and other local taxing unit of the State. The General Assembly's power to classify property shall not be delegated.

(3) *Exemptions.* Property belonging to the State, counties, and municipal corporations shall be exempt from taxation. The General Assembly may exempt cemeteries and property held for educational, scientific, literary, cultural, charitable, or religious purposes, and, to a value not exceeding \$300, any personal property. The General Assembly may exempt from taxation not exceeding \$1,000 in value of property held and used as the place of residence of the owner. Every exemption shall be on a State-wide basis and shall be made by general law uniformly applicable in every county, city and town, and other local taxing unit of the State. No taxing authority other than the General Assembly may grant exemptions, and the General Assembly shall not delegate the powers accorded to it by this subsection.

(4) *Twenty-cent limitation.* The total of the State and county tax on property shall not exceed 20 cents on the \$100 value of property, except when the property tax is levied for a special purpose and with the special approval of the General Assembly, which may be done by special or general act. This limitation shall not apply to taxes levied for the maintenance of the public schools of the State. The State tax shall not exceed five cents on the \$100 value of property.

(5) *Necessary expense limitation.* No tax shall be levied or collected by the officers of any county, city or town, or other unit of local government, except for the necessary expenses thereof, unless approved by a majority of the qualified voters who vote thereon in any election held for the purpose.

(6) *Income tax.* The rate of tax on incomes shall not in any case exceed ten per cent, and there shall be allowed personal exemptions and deductions so that only net incomes are taxed.

SEC. 3. *Limitations upon the increase of State debt.*

(1) *Authorized purposes; two-thirds limitation.* The General Assembly may contract debts and pledge the faith and credit of the State for the following purposes:

To fund or refund a valid existing debt;

To borrow in anticipation of the collection of taxes due and payable within the fiscal year to an amount not exceeding 50 per cent of such taxes;

To supply a casual deficit;

To suppress riots or insurrections, or to repel invasions.

For any purpose other than these enumerated, the General Assembly shall have no power, during any biennium, to contract new debts on behalf of the State to an amount in excess of two-thirds of the amount by which the State's outstanding indebtedness shall have been reduced during the next preceding biennium, unless the subject is submitted to a vote of the people of the State. In any election held in the State under the provisions of this Section, the proposed indebtedness shall be approved by a majority of the qualified voters who vote thereon.

(2) *Gift or loan of credit prohibited.* The General Assembly shall have no power to give or lend the credit of the State in aid of any person, association, or corporation except a corporation in which the State has a controlling interest, unless the subject is submitted to a direct vote of the people of the State and is approved by a majority of the qualified voters who vote thereon.

(3) *Certain debts barred.* The General Assembly shall never assume or pay any debt or obligation, express or implied, incurred in aid of insurrection or rebellion against the United States. Neither shall the General Assembly assume or pay any debt or bond incurred or issued by authority of the Convention of 1868, the special session of the General Assembly of 1868, or the General Assemblies of 1868-69 or 1869-70, unless the subject is submitted to the people of the State and is approved by a majority of all the qualified voters at a referendum held for that sole purpose.

SEC. 4. *Limitations upon the increase of local debt.*

(1) *Authorized purposes; two-thirds limitation.* The General Assembly may authorize counties, cities and towns, and other units of local government to contract debts and pledge their faith and credit for the following purposes:

To fund or refund a valid existing debt;

To borrow in anticipation of the collection of taxes due and payable within the fiscal year to an amount not exceeding 50 per cent of such taxes;

To supply a casual deficit;

To suppress riots or insurrections.

For any purpose other than these enumerated, the General Assembly shall have no power to authorize counties, cities and towns, and other units of local government to contract debts, and counties, cities and towns, and other units of local government shall not contract debts, during any fiscal year, to an amount exceeding two-thirds of the amount by which the outstanding indebtedness of the particular county, city or town, or other unit of local government shall have been reduced during the next preceding fiscal year, unless the subject is submitted to a vote of the people of the particular county, city or town, or other unit of local government and is approved by a majority of the qualified voters who vote thereon.

(2) *Necessary expense limitation.* No county, city or town, or other unit of local government shall contract any debt, pledge its faith, or lend its credit except for the necessary expenses thereof, unless approved by a majority of the qualified voters who shall vote thereon in any election held for that purpose.

(3) *Certain debts barred.* No county, city or town, or other unit of local government shall assume or pay, nor shall any tax be levied or collected for the payment of, any debt, or the interest upon any debt, contracted directly or indirectly in aid or support of rebellion.

SEC. 5. *Acts levying taxes to state objects.* Every act of the General Assembly levying a tax shall state the special object to which it is to be applied, and it shall be applied to no other purpose.

SEC. 6. *Inviolability of sinking funds and retirement funds.*

(1) *Sinking funds.* The General Assembly shall not use or authorize to be used any part of the amount of any sinking fund for any purpose other than the retirement of the bonds for which the sinking fund has been created.

(2) *Retirement funds.* Neither the General Assembly nor any public officer, employee, or agency shall use or authorize to be used any part of the funds of the Teachers' and State Employees' Retirement System for any purpose other than retirement system benefits and purposes, administrative expenses, and refunds; except that retirement system funds may be invested as authorized by law, subject to the investment limitation that the funds of the Teachers' and State Employees' Retirement System shall not be applied, diverted, loaned to, or used by the State, any State Agency, State officer, public officer, or public employee.

SEC. 7. *Drawing public money.*

(1) *State treasury.* No money shall be drawn from the State treasury but in consequence of appropriations made by law, and an accurate account of the receipts and expenditures of State funds shall be annually published.

(2) *Local government treasuries.* No money shall be drawn from the treasury of any county, city or town, or other unit of local government except by authority of law.

NOTE: The following revision of Article V is effective July 1, 1973.

ARTICLE V

FINANCE

SECTION 1. *No capitation tax to be levied.* No poll or capitation tax shall be levied by the General Assembly or by any county, city or town, or other taxing unit.

SEC. 2. *State and local taxation.*

(1) *Power of taxation.* The power of taxation shall be exercised in a just and equitable manner, for public purposes only, and shall never be surrendered, suspended, or contracted away.

(2) *Classification.* Only the General Assembly shall have the power to classify property for taxation, which power shall be exercised only on a State-wide basis and shall not be delegated. No class of property shall be taxed except by uniform rule, and every classification shall be made by general law uniformly applicable in every county, city and town, and other unit of local government.

(3) *Exemptions.* Property belonging to the State, counties, and municipal corporations shall be exempt from taxation. The General Assembly may exempt cemeteries and property held for educational, scientific, literary, cultural, charitable, or religious purposes, and, to a value not exceeding \$300, any personal property. The General Assembly may exempt from taxation not exceeding \$1,000 in value of property held and used as the place of residence of the owner. Every exemption shall be on a State-wide basis and shall be made by general law uniformly applicable in every county, city and town, and other unit of local government. No taxing authority other than the General Assembly may grant exemptions, and the General Assembly shall not delegate the powers accorded to it by this subsection.

(4) *Special tax areas.* Subject to the limitations imposed by Section 4, the General Assembly may enact general laws authorizing the governing body of any county, city, or town to define territorial areas and to levy taxes within those areas, in addition to those levied throughout the county, city, or town, in order to finance, provide, or maintain services, facilities, and functions in addition to or to a greater extent than those financed, provided, or maintained for the entire county, city, or town.

(5) *Purposes of property tax.* The General Assembly shall not authorize any county, city or town, special district, or other unit of local government to levy taxes on property, except for purposes authorized by general law uniformly applicable throughout the State, unless the tax is approved by a majority of the qualified voters of the unit who vote thereon.

(6) *Income tax.* The rate of tax on incomes shall not in any case exceed ten per cent, and there shall be allowed personal exemptions and deductions so that only net incomes are taxed.

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(7) *Contracts.* The General Assembly may enact laws whereby the State, any county, city or town, and any other public corporation may contract with and appropriate money to any person, association, or corporation for the accomplishment of public purposes only.

SEC. 3. *Limitations upon the increase of State debt.*

(1) *Authorized purposes; two-thirds limitation.* The General Assembly shall have no power to contract debts secured by a pledge of the faith and credit of the State, unless approved by a majority of the qualified voters of the State who vote thereon, except for the following purposes:

- (a) to fund or refund a valid existing debt;
- (b) to supply an unforeseen deficiency in the revenue;
- (c) to borrow in anticipation of the collection of taxes due and payable within the current fiscal year to an amount not exceeding 50 per cent of such taxes;
- (d) to suppress riots or insurrections, or to repel invasions;
- (e) to meet emergencies immediately threatening the public health or safety, as conclusively determined in writing by the Governor;
- (f) for any other lawful purpose, to the extent of two-thirds of the amount by which the State's outstanding indebtedness shall have been reduced during the next preceding biennium.

(2) *Gift or loan of credit regulated.* The General Assembly shall have no power to give or lend the credit of the State in aid of any person, association, or corporation, except a corporation in which the State has a controlling interest, unless the subject is submitted to a direct vote of the people of the State, and is approved by a majority of the qualified voters who vote thereon.

(3) *Definitions.* A debt is incurred within the meaning of this Section when the State borrows money. A pledge of the faith and credit within the meaning of this Section is a pledge of the taxing power. A loan of credit within the meaning of this Section occurs when the State exchanges its obligations with or in any way guarantees the debts of an individual, association, or private corporation.

(4) *Certain debts barred.* The General Assembly shall never assume or pay any debt or obligation, express or implied, incurred in aid of insurrection against the United States. Neither shall the General Assembly assume or pay any debt or bond incurred or issued by authority of the Convention of 1868, the special session of the General Assembly of 1868, or the General Assemblies of 1868-69 and 1869-70, unless the subject is submitted to the

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people of the State and is approved by a majority of all the qualified voters at a referendum held for that sole purpose.

(5) *Outstanding debt.* Except as provided in subsection (4), nothing in this Section shall be construed to invalidate or impair the obligation of any bond, note, or other evidence of indebtedness outstanding or authorized for issue as of July 1, 1973.

SEC. 4. *Limitations upon the increase of local government debt.*

(1) *Regulation of borrowing and debt.* The General Assembly shall enact general laws relating to the borrowing of money secured by a pledge of the faith and credit and the contracting of other debts by counties, cities and towns, special districts, and other units, authorities, and agencies of local government.

(2) *Authorized purposes; two-thirds limitation.* The General Assembly shall have no power to authorize any county, city or town, special district, or other unit of local government to contract debts secured by a pledge of its faith and credit unless approved by a majority of the qualified voters of the unit who vote thereon, except for the following purposes:

- (a) to fund or refund a valid existing debt;
- (b) to supply an unforeseen deficiency in the revenue;
- (c) to borrow in anticipation of the collection of taxes due and payable within the current fiscal year to an amount not exceeding 50 per cent of such taxes;
- (d) to suppress riots or insurrections;
- (e) to meet emergencies immediately threatening the public health or safety, as conclusively determined in writing by the Governor;
- (f) for purpose authorized by general laws uniformly applicable throughout the State, to the extent of two-thirds of the amount by which the unit's outstanding indebtedness shall have been reduced during the next preceding fiscal year.

(3) *Gift or loan of credit regulated.* No county, city or town, special district, or other unit of local government shall give or lend its credit in aid of any person, association, or corporation, except for public purposes as authorized by general law, and unless approved by a majority of the qualified voters of the unit who vote thereon.

(4) *Certain debts barred.* No county, city or town, or other unit of local government shall assume or pay any debt or the interest thereon contracted directly or indirectly in aid or support of rebellion or insurrection against the United States.

(5) *Definitions.* A debt is incurred within the meaning of this Section when a county, city or town, special district, or other unit, authority, or agency of local government borrows money. A pledge of faith and credit within the meaning of this Section is a pledge of the taxing power. A loan of credit within the meaning of this Section occurs when a county, city or town, special district, or other unit, authority, or agency of local government exchanges its obligations with or in any way guarantees the debts of an individual, association, or private corporation.

(6) *Outstanding debt.* Except as provided in subsection (4), nothing in this Section shall be construed to invalidate or impair the obligation of any bond, note, or other evidence of indebtedness outstanding or authorized for issue as of July 1, 1973.

SEC. 5. *Acts levying taxes to state objects.* Every act of the General Assembly levying a tax shall state the special object to which it is to be applied, and it shall be applied to no other purpose.

SEC. 6. *Inviolability of sinking funds and retirement funds.*

(1) *Sinking funds.* The General Assembly shall not use or authorize to be used any part of the amount of any sinking fund for any purpose other than the retirement of the bonds for which the sinking fund has been created, except that these funds may be invested as authorized by law.

(2) *Retirement funds.* Neither the General Assembly nor any public officer, employee, or agency shall use or authorize to be used any part of the funds of the Teachers' and State Employees' Retirement System or the Local Governmental Employees' Retirement System for any purpose other than retirement system benefits and purposes, administrative expenses, and refunds; except that retirement system funds may be invested as authorized by law, subject to the investment limitation that the funds of the Teachers' and State Employees' Retirement System and the Local Governmental Employees' Retirement System shall not be applied, diverted, loaned to, or used by the State, any State agency, State officer, public officer, or public employee.

SEC. 7. *Drawing public money.*

(1) *State treasury.* No money shall be drawn from the State Treasury but in consequence of appropriations made by law, and an accurate account of the receipts and expenditures of State funds shall be published annually.

(2) *Local treasury.* No money shall be drawn from the treasury of any county, city or town, or other unit of local government except by authority of law.

ARTICLE VI

SUFFRAGE AND ELIGIBILITY TO OFFICE

SEC. 1. *Who may vote.* Every person born in the United States and every person who has been naturalized, 18 years of age, and possessing the qualifications set out in this Article, shall be entitled to vote at any election by the people of the State, except as herein otherwise provided.

SEC. 2. *Qualifications of voter.*

(1) *Residence period for State elections.* Any person who has resided in the State of North Carolina for one year and in the precinct, ward, or other election district for 30 days next preceding an election, and possesses the other qualifications set out in this Article, shall be entitled to vote at any election held in this State. Removal from one precinct, ward, or other election district to another in this State shall not operate to deprive any person of the right to vote in the precinct, ward, or other election district from which that person has removed until 30 days after the removal.

(2) *Residence period for presidential elections.* The General Assembly may reduce the time of residence for persons voting in presidential elections. A person made eligible by reason of a reduction in time of residence shall possess the other qualifications set out in this Article, shall only be entitled to vote for President and Vice President of the United States or for electors for President and Vice President, and shall not thereby become eligible to hold office in this State.

(3) *Disqualification of felon.* No person adjudged guilty of a felony against this State or the United States, or adjudged guilty of a felony in another state that also would be a felony if it had been committed in this State, shall be permitted to vote unless that person shall be first restored to the rights of citizenship in the manner prescribed by law.

SEC. 3. *Registration.* Every person offering to vote shall be at the time legally registered as a voter as herein prescribed and in the manner provided by law. The General Assembly shall enact general laws governing the registration of voters.

SEC. 4. *Qualification for registration.* Every person presenting himself for registration shall be able to read and write any section of the Constitution in the English language.

SEC. 5. *Elections by people and General Assembly.* All elections by the people shall be by ballot, and all elections by the General Assembly shall be viva voce. A contested election for any office established by Article III of this Constitution shall be determined by joint ballot of both houses of the General Assembly in the manner prescribed by law.

SEC. 6. *Eligibility to elective office.* Every qualified voter in North Carolina who is 21 years of age, except as in this Constitution disqualified, shall be eligible for election by the people to office.

SEC. 7. *Oath.* Before entering upon the duties of an office, a person elected or appointed to the office shall take and subscribe the following oath:

"I,, do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office as....., so help me God."

SEC. 8. *Disqualifications for office.* The following persons shall be disqualified for office:

First, any person who shall deny the being of Almighty God.

Second, with respect to any office that is filled by election by the people, any person who is not qualified to vote in an election for that office.

Third, any person who has been adjudged guilty of treason or any other felony against this State or the United States, or any person who has been adjudged guilty of a felony in another state that also would be a felony if it had been committed in this State, or any person who has been adjudged guilty of corruption or malpractice in any office, or any person who has been removed by impeachment from any office, and who has not been restored to the rights of citizenship in the manner prescribed by law.

SEC. 9. *Dual office holding.*

(1) *Prohibitions.* It is salutary that the responsibilities of self-government be widely shared among the citizens of the State and that the potential abuse of authority inherent in the holding of multiple offices by an individual be avoided. Therefore, no person who holds any office or place of trust or profit under the United States or any department thereof, or under any other state or government, shall be eligible to hold any office in this State that is filled by election by the people. No person shall hold concurrently any two offices in this State that are filled by election of the people. No person shall hold concurrently any two or more appointive offices or places of trust or profit, or any combination of elective and appointive offices or places of trust or profit, except as the General Assembly shall provide by general law.

(2) *Exceptions.* The provisions of this Section shall not prohibit any officer of the military forces of the State or of the United States not on active duty for an extensive period of time, any notary public, or any delegate to a Convention of the People from holding concurrently another office or place of trust or profit under this State or the United States or any department thereof.

SEC. 10. *Continuation in office.* In the absence of any contrary provision, all officers in this State, whether appointed or elected, shall hold their positions until other appointments are made or, if the offices are elective, until their successors are chosen and qualified.

ARTICLE VII

LOCAL GOVERNMENT

SECTION 1. *General Assembly to provide for local government.* The General Assembly shall provide for the organization and government and the fixing of boundaries of counties, cities and towns, and other governmental subdivisions, and, except as otherwise prohibited by this Constitution, may

give such powers and duties to counties, cities and towns, and other governmental subdivisions as it may deem advisable.

The General Assembly shall not incorporate as a city or town, nor shall it authorize to be incorporated as a city or town, any territory lying within one mile of the corporate limits of any other city or town having a population of 5,000 or more according to the most recent decennial census of population taken by order of Congress, or lying within three miles of the corporate limits of any other city or town having a population of 10,000 or more according to the most recent decennial census of population taken by order of Congress, or lying within four miles of the corporate limits of any other city or town having a population of 25,000 or more according to the most recent decennial census of population taken by order of Congress, or lying within five miles of the corporate limits of any other city or town having a population of 50,000 or more according to the most recent decennial census of population taken by order of Congress. Notwithstanding the foregoing limitations, the General Assembly may incorporate a city or town by an act adopted by vote of three-fifths of all the members of each house.

SEC. 2. *Sheriffs.* In each county a Sheriff shall be elected by the qualified voters thereof at the same time and places as members of the General Assembly are elected and shall hold his office for a period of four years, subject to removal for cause as provided by law.

SEC. 3. *Merged or consolidated counties.* Any unit of local government formed by the merger or consolidation of a county or counties and the cities and towns therein shall be deemed both a county and a city for the purposes of this Constitution, and may exercise any authority conferred by law on counties, or on cities and towns, or both, as the General Assembly may provide.

ARTICLE VIII

CORPORATIONS

SECTION 1. *Corporate charters.* No corporation shall be created, nor shall its charter be extended, altered, or amended by special act, except corporations for charitable, educational, penal, or reformatory purposes that are to be and remain under the patronage and control of the State; but the General Assembly shall provide by general laws for the chartering, organization, and powers of all corporations, and for the amending, extending, and forfeiture of all charters, except those above permitted by special act. All such general acts may be altered from time to time or repealed. The General Assembly may at any time by special act repeal the charter of any corporation.

SEC. 2. *Corporations defined.* The term "corporation" as used in this Section shall be construed to include all associations and joint-stock companies having any of the powers and privileges of corporations not possessed by individuals or partnerships. All corporations shall have the right to sue and shall be subject to be sued in all courts, in like cases as natural persons.

ARTICLE IX

EDUCATION

SECTION 1. *Education encouraged.* Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools, libraries, and the means of education shall forever be encouraged.

SEC. 2. *Uniform system of schools.*

(1) *General and uniform system; term.* The General Assembly shall provide by taxation and otherwise for a general and uniform system of free public schools, which shall be maintained at least nine months in every year, and wherein equal opportunities shall be provided for all students.

(2) *Local responsibility.* The General Assembly may assign to units of local government such responsibility for the financial support of the free public schools as it may deem appropriate. The governing boards of units of local government with financial responsibility for public education may use local revenues to add to or supplement any public school or post-secondary school program.

SEC. 3. *School attendance.* The General Assembly shall provide that every child of appropriate age and of sufficient mental and physical ability shall attend the public schools, unless educated by other means.

SEC. 4. *State Board of Education.*

(1) *Board.* The State Board of Education shall consist of the Lieutenant Governor, the Treasurer, and eleven members appointed by the Governor, subject to confirmation by the General Assembly in joint session. The General Assembly shall divide the State into eight educational districts. Of the appointive members of the Board, one shall be appointed from each of the eight educational districts and three shall be appointed from the State at large. Appointments shall be for overlapping terms of eight years. Appointments to fill vacancies shall be made by the Governor for the unexpired terms and shall not be subject to confirmation.

(2) *Superintendent of Public Instruction.* The Superintendent of Public Instruction shall be the secretary and chief administrative officer of the State Board of Education.

SEC. 5. *Powers and duties of Board.* The State Board of Education shall supervise and administer the free public school system and the educational funds provided for its support, except the funds mentioned in Section 7 of this Article, and shall make all needed rules and regulations in relation thereto, subject to laws enacted by the General Assembly.

SEC. 6. *State school fund.* The proceeds of all lands that have been or hereafter may be granted by the United States to this State, and not otherwise appropriated by this State or the United States; all moneys, stocks, bonds, and other property belonging to the State for purposes of public education; the net proceeds of all sales of the swamp lands belonging to the State; and all other grants, gifts, and devises that have been or hereafter may be made to the State, and not otherwise appropriated by the State or

by the terms of the grant, gift, or devise, shall be paid into the State Treasury and, together with so much of the revenue of the State as may be set apart for that purpose, shall be faithfully appropriated and used exclusively for establishing and maintaining a uniform system of free public schools.

SEC. 7. *County school fund.* All moneys, stocks, bonds, and other property belonging to a county school fund, and the clear proceeds of all penalties and forfeitures and of all fines collected in the several counties for any breach of the penal laws of the State, shall belong to and remain in the several counties, and shall be faithfully appropriated and used exclusively for maintaining free public schools.

SEC. 8. *Higher education.* The General Assembly shall maintain a public system of higher education, comprising The University of North Carolina and such other institutions of higher education as the General Assembly may deem wise. The General Assembly shall provide for the selection of trustees of The University of North Carolina and of the other institutions of higher education, in whom shall be vested all the privileges, rights, franchises, and endowments heretofore granted to or conferred upon the trustees of these institutions. The General Assembly may enact laws necessary and expedient for the maintenance and management of The University of North Carolina and the other public institutions of higher education.

SEC. 9. *Benefits of public institutions of higher education.* The General Assembly shall provide that the benefits of The University of North Carolina and other public institutions of higher education, as far as practicable, be extended to the people of the State free of expense.

SEC. 10. *Escheats.*

(1) *Escheats prior to July 1 1971.* All property that prior to July 1, 1971, accrued to the State from escheats, unclaimed dividends, or distributive shares of the estates of deceased persons shall be appropriated to the use of The University of North Carolina.

(2) *Escheats after June 30, 1971.* All property that, after June 30, 1971, shall accrue to the State from escheats, unclaimed dividends, or distributive shares of the estates of deceased persons shall be used to aid worthy and needy students who are residents of this State and are enrolled in public institutions of higher education in this State. The method, amount, and type of distribution shall be prescribed by law.

ARTICLE X

HOMESTEADS AND EXEMPTIONS

SECTION 1. *Personal property exemptions.* The personal property of any resident of this State, to a value fixed by the General Assembly but not less than \$500, to be selected by the resident, is exempted from sale under execution or other final process of any court, issued for the collection of any debt.

SEC. 2. *Homestead exemptions.*

(1) *Exemption from sale; exceptions.* Every homestead and the dwellings and buildings used therewith, to a value fixed by the General Assembly but not less than \$1,000, to be selected by the owner thereof, or in lieu thereof, at the option of the owner, any lot in a city or town with the dwellings and buildings used thereon, and to the same value, owned and occupied by a resident of the State, shall be exempt from sale under execution or other final process obtained on any debt. But no property shall be exempt from sale for taxes, or for payment of obligations contracted for its purchase.

(2) *Exemption for benefit of children.* The homestead, after the death of the owner thereof, shall be exempt from the payment of any debt during the minority of the owner's children, or any of them.

(3) *Exemption for benefit of widow.* If the owner of a homestead dies, leaving a widow but no children, the homestead shall be exempt from the debts of her husband, and the rents and profits thereof shall inure to her benefit during her widowhood, unless she is the owner of a homestead in her own right.

(4) *Conveyance of homestead.* Nothing contained in this Article shall operate to prevent the owner of a homestead from disposing of it by deed, but no deed made by the owner of a homestead shall be valid without the signature and acknowledgement of his wife.

SEC. 3. *Mechanics' and laborers' liens.* The General Assembly shall provide by proper legislation for giving to mechanics and laborers an adequate lien on the subject-matter of their labor. The provisions of Sections 1 and 2 of this Article shall not be so construed as to prevent a laborer's lien for work done and performed for the person claiming the exemption or a mechanic's lien for work done on the premises.

SEC. 4. *Property of married women secured to them.* The real and personal property of any female in this State acquired before marriage, and all property, real and personal, to which she may, after marriage, become in any manner entitled, shall be and remain the sole and separate estate and property of such female, and shall not be liable for any debts, obligations, or engagements of her husband, and may be devised and bequeathed and conveyed by her, subject to such regulations and limitations as the General Assembly may prescribe. Every married woman may exercise powers of attorney conferred upon her by her husband, including the power to execute and acknowledge deeds to property owned by herself and her husband or by her husband.

SEC. 5. *Insurance.* The husband may insure his own life for the sole use and benefit of his wife or children or both, and upon his death the proceeds from the insurance shall be paid to or for the benefit of the wife or children or both, or to a guardian, free from all claims of the representatives or creditors of the insured or his estate. Any insurance policy which insures the life of a husband for the sole use and benefit of his wife or children or both shall not be subject to the claims of creditors of the insured during his lifetime, whether or not the policy reserves to the insured during his lifetime any or all rights provided for by the policy and whether or not the

policy proceeds are payable to the estate of the insured in the event the beneficiary or beneficiaries predecease the insured.

ARTICLE XI

PUNISHMENTS, CORRECTIONS, AND CHARITIES

SECTION 1. *Punishments.* The following punishments only shall be known to the laws of this State: death, imprisonment, fines, removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under this State.

SEC. 2. *Death punishment.* The object of punishments being not only to satisfy justice, but also to reform the offender and thus prevent crime, murder, arson, burglary, and rape, and these only, may be punishable with death, if the General Assembly shall so enact.

SEC. 3. *Charitable and correctional institutions and agencies.* Such charitable, benevolent, penal, and correctional institutions and agencies as the needs of humanity and the public good may require shall be established and operated by the State under such organization and in such manner as the General Assembly may prescribe.

SEC. 4. *Welfare policy; board of public welfare.* Beneficent provision for the poor, the unfortunate, and the orphan is one of the first duties of a civilized and a Christian state. Therefore the General Assembly shall provide for and define the duties of a board of public welfare.

ARTICLE XII

MILITARY FORCES

SECTION 1. *Governor is Commander in Chief.* The Governor shall be Commander in Chief of the military forces of the State and may call out those forces to execute the law, suppress riots and insurrections, and repel invasion.

ARTICLE XIII

CONVENTIONS; CONSTITUTIONAL AMENDMENT AND REVISION

SECTION 1. *Convention of the People.* No Convention of the People of this State shall ever be called unless by the concurrence of two-thirds of all the members of each house of the General Assembly, and unless the proposition "Convention or No Convention" is first submitted to the qualified voters of the State at the time and in the manner prescribed by the General Assembly. If a majority of the votes cast upon the proposition are in favor of a Convention, it shall assemble on the day prescribed by the General Assembly. The General Assembly shall, in the act submitting the convention proposition, propose limitations upon the authority of the Convention; and if a majority of the votes cast upon the proposition are in favor of a Convention, those limitations shall become binding upon the Convention. Delegates to the Convention shall be elected by the qualified voters at the time and in the manner prescribed in the act of submission. The Convention shall consist

of a number of delegates equal to the membership of the House of Representatives of the General Assembly that submits the convention proposition and the delegates shall be apportioned as is the House of Representatives. A Convention shall adopt no ordinance not necessary to the purpose for which the Convention has been called.

SEC. 2. *Power to revise or amend Constitution reserved to people.* The people of this State reserve the power to amend this Constitution and to adopt a new or revised Constitution. This power may be exercised by either of the methods set out hereinafter in this Article, but in no other way.

SEC. 3. *Revision or amendment by Convention of the People.* A Convention of the People of this State may be called pursuant to Section 1 of this Article to propose a new or revised Constitution or to propose amendments to this Constitution. Every new or revised Constitution and every constitutional amendment adopted by a Convention shall be submitted to the qualified voters of the State at the time and in the manner prescribed by the Convention. If a majority of the votes cast thereon are in favor of ratification of the new or revised Constitution or the constitutional amendment or amendments, it or they shall become effective January first next after ratification by the qualified voters unless a different effective date is prescribed by the Convention.

SEC. 4. *Revision or amendment by legislative initiation.* A proposal of a new or revised Constitution or an amendment or amendments to this Constitution may be initiated by the General Assembly, but only if three-fifths of all the members of each house shall adopt an act submitting the proposal to the qualified voters of the State for their ratification or rejection. The proposal shall be submitted at the time and in the manner prescribed by the General Assembly. If a majority of the votes cast thereon are in favor of the proposed new or revised Constitution or constitutional amendment or amendments, it or they shall become effective January first next after ratification by the voters unless a different effective date is prescribed in the act submitting the proposal or proposals to the qualified voters.

ARTICLE XIV

MISCELLANEOUS

SECTION 1. *Seat of government.* The permanent seat of government of this State shall be at the City of Raleigh.

SEC. 2. *State boundaries.* The limits and boundaries of the State shall be and remain as they now are.

SEC. 3. *General laws defined.* Whenever the General Assembly is directed or authorized by this Constitution to enact general laws, or general laws uniformly applicable in every county, city and town, and other unit of local government, or in every local court district, no special or local act shall be enacted concerning the subject matter directed or authorized to be accomplished by general or uniformly applicable laws, and every amendment or repeal of any law relating to that subject matter shall also be general and

uniform in its effect throughout the State. General laws may be enacted for classes defined by population or other criteria. General laws uniformly applicable in every county, city and town, and other unit of local government, or in every local court district, shall be made applicable without classification or exception in every county, city and town, and other unit of local government, or in every local court district, as the case may be. The General Assembly may at any time repeal any special, local, or private act.

NOTE: Effective July 1, 1973, Article XIV, Section 3, is revised to read as follows:

SEC. 3. *General laws defined.* Whenever the General Assembly is directed or authorized by this Constitution to enact general laws, or general laws uniformly applicable throughout the State, or general laws uniformly applicable in every county, city and town, and other unit of local government, or in every local court district, no special or local act shall be enacted concerning the subject matter directed or authorized to be accomplished by general or uniformly applicable laws, and every amendment or repeal of any law relating to such subject matter shall also be general and uniform in its effect throughout the State. General laws may be enacted for classes defined by population or other criteria. General laws uniformly applicable throughout the State shall be made applicable without classification or exception in every unit of local government of like kind, such as every county, or every city and town, but need not be made applicable in every unit of local government in the State. General laws uniformly applicable in every county, city and town, and other unit of local government, or in every local court district, shall be made applicable without classification or exception in every unit of local government, or in every local court district, as the case may be. The General Assembly may at any time repeal any special, local, or private act.

SEC. 4. *Continuity of laws; protection of office holders.* The laws of North Carolina not in conflict with this Constitution shall continue in force until lawfully altered. Except as otherwise specifically provided, the adoption of this Constitution shall not have the effect of vacating any office or term of office now filled or held by virtue of any election or appointment made under the prior Constitution of North Carolina and the laws of the State enacted pursuant thereto.

SEC. 5. *Conservation of natural resources.* It shall be the policy of this State to conserve and protect its lands and waters for the benefit of all its citizenry, and to this end it shall be a proper function of the State of North Carolina and its political subdivisions to acquire and preserve park, recreational, and scenic areas, to control and limit the pollution of our air and water, to control excessive noise, and in every other appropriate way to preserve as a part of the common heritage of this State its forests, wetlands, estuaries, beaches, historical sites, openlands, and places of beauty.

To accomplish the aforementioned public purposes, the State and its counties, cities and towns, and other units of local government may acquire by purchase or gift properties or interests in properties which shall, upon

their special dedication to and acceptance by resolution adopted by a vote of three-fifths of the members of each house of the General Assembly for those public purposes, constitute part of the "State Nature and Historic Preserve", and which shall not be used for other purposes except as authorized by the law enacted by a vote of three-fifths of the members of each house of the General Assembly. The General Assembly shall prescribe by general law the conditions and procedures under which such properties or interests therein shall be dedicated for the aforementioned public purposes.



**SESSION LAWS
OF THE
STATE OF NORTH CAROLINA**

REGULAR SESSION 1973

S. B. 25

CHAPTER 1

AN ACT TO AMEND G.S. 50-4 WITH REGARD TO THE JURISDICTION
OF THE DISTRICT COURT IN PROCEEDINGS FOR ANNULMENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 50-4 is hereby amended by deleting from the first line thereof the word "superior" and inserting in lieu thereof the word "district" so that G.S. 50-4 reads as follows:

"§ 50-4. *What marriages may be declared void on application of either party.*—The district court, during a session of court, on application made as by law provided, by either party to a marriage contracted contrary to the prohibitions contained in the chapter entitled Marriage, or declared void by said chapter, may declare such marriage void from the beginning, subject, nevertheless, to the second proviso contained in G.S. 51-3."

Sec. 2. This act shall be in full force and effect on and after its ratification.

In the General Assembly read three times and ratified, this the 30th day of January, 1973.

S. B. 30

CHAPTER 2

AN ACT AMENDING G.S. 50-10 RELATING TO DIVORCE WITHOUT A
JURY TRIAL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 50-10, as the same appears in the 1971 Cumulative Supplement to the General Statutes of North Carolina, Volume 2A, is hereby amended to delete the last paragraph thereof.

Sec. 2. This act shall become effective on October 1, 1973.

In the General Assembly read three times and ratified, this the 30th day of January, 1973.

S. B. 65

CHAPTER 3

AN ACT PROVIDING THAT THE ROANOKE RAPIDS GRADED SCHOOL DISTRICT SHARE IN THE HALIFAX COUNTY LOCAL GOVERNMENT SALES AND USE TAX PROCEEDS.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding any provision of Subchapter VIII of Chapter 105 of the General Statutes (The Local Government Sales and Use Tax Act) to the contrary, and for the purpose of determining the proceeds of the Local Government Sales and Use Tax to be distributed to Halifax County and the municipalities therein, and to be shared by the City of Roanoke Rapids with the Roanoke Rapids Graded School District, the City of Roanoke Rapids shall, for so long as the proceeds of the tax are distributed in Halifax County pursuant to G.S. 105-472(2), include in the amount of ad valorem taxes levied by it the amount of ad valorem taxes levied and collected by the Roanoke Rapids Graded School District during the next preceding fiscal year as if the City had levied and collected the tax for the District. Upon receiving its distributable share of the Local Government Sales and Use Tax, the City shall in turn immediately share the proceeds with the District in the same manner and proportion provided in G.S. 105-472(2) as if the City had levied the tax in behalf of the District.

Sec. 2. This act shall be effective upon ratification and shall apply to the distribution of Local Government Sales and Use Tax collected during the quarter ending on December 31, 1972, and to all subsequent distributions of said tax.

In the General Assembly read three times and ratified, this the 30th day of January, 1973.

H. B. 16

CHAPTER 4

AN ACT TO REVISE AND REWRITE THE CHARTER OF THE TOWN OF LEGGETT IN EDGECOMBE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Leggett is hereby revised and rewritten and the Town of Leggett in Edgecombe County shall continue to be a body corporate and politic and shall have all municipal powers, functions, rights, privileges and immunities conferred upon municipal corporations by the Constitution and laws of North Carolina.

Sec. 2. The corporate limits shall embrace all the territory within one-half a mile radius from the center of the intersection of Highway No. 97 and Highway No. 44 in said town.

Sec. 3. The town shall be governed by a mayor and a board of commissioners who shall be elected from the town at large for terms of two years. The powers and duties of the mayor shall be those conferred by law, together with such powers and duties as the board of commissioners may confer upon him pursuant to law. The government and general management of the town shall be vested in the board of commissioners.

Sec. 4. Until the next regular municipal election to be held in November 1973, the following persons shall constitute the board of commissioners:

Lawrence Gully, Nina Fountain and Charles Corbett. Junius H. Koonce shall serve as mayor until the November 1973 election.

Sec. 5. The elections in the town shall be nonpartisan and decided by a simple plurality, and shall be held and conducted by the Edgecombe County Board of Elections in accordance with municipal election laws in Chapter 163 of the General Statutes.

Sec. 6. Chapter 113, Private Laws of 1925, is hereby repealed, and all other laws and clauses of laws in conflict with this act are hereby repealed to the extent of such conflict.

Sec. 7. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 31st day of January, 1973.

S. B. 100

CHAPTER 5

AN ACT AUTHORIZING THE BOARD OF COUNTY COMMISSIONERS OF SCOTLAND COUNTY TO ADOPT AN ORDINANCE UNDER G.S. 153-9(55) REGULATING THE VISIBILITY OF DRIVE-IN THEATER MOTION PICTURE SCREENS TO OPERATORS OF MOTOR VEHICLES UPON THE PUBLIC STREETS AND HIGHWAYS.

The General Assembly of North Carolina enacts:

Section 1. The Board of Commissioners of Scotland County shall have authority under G.S. 153-9(55) to adopt ordinances regulating any drive-in motion picture theaters which are or shall be established, operated or maintained in the vicinity of any public street or highway to the end that the surface of such theater screen upon which pictures are being or shall be projected shall not be visible to any person operating a motor vehicle upon such street or highway.

Sec. 2. This act shall be in addition to any other authority granted by law.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of February, 1973.

S. B. 57

CHAPTER 6

AN ACT TO AMEND GENERAL STATUTES 7A-273 TO DELETE THE MAGISTRATE'S AUTHORITY TO CONDUCT PRELIMINARY HEARINGS IN MISDEMEANOR CASES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-273 is amended by deleting subsection (3), which authorizes magistrates to conduct preliminary hearings in misdemeanor cases, and by renumbering the succeeding subsections accordingly.

Sec. 2. This act shall become effective October 1, 1973.

In the General Assembly read three times and ratified, this the 2nd day of February, 1973.

H. B. 7

CHAPTER 7

AN ACT TO REPEAL LOCAL AND SPECIAL ACTS RELATING TO EXPENDITURE OF FUNDS FOR LOCAL DEVELOPMENT IN BUNCOMBE COUNTY AND THE CITY OF ASHEVILLE, AND TO MAKE THE GENERAL STATUTES APPLICABLE THERETO.

The General Assembly of North Carolina enacts:

Section 1. The provisions of Chapter 158 of the General Statutes are hereby made applicable to the City of Asheville, the County of Buncombe and all municipalities therein. The City of Asheville, the County of Buncombe, and all municipalities therein, shall not appropriate or expend any public funds for economic and local development or for the advancement and development of the resources of said County and municipality except as authorized in Chapter 158 of the General Statutes or other general laws of the State.

Sec. 2. Chapter 34, Private laws of 1909; Chapter 605 Public-Local and Private Laws 1919; Chapter 930, Session Laws of 1953; Chapter 607, Session Laws of 1957; Chapter 1043 Session Laws of 1959; Chapter 94 Session Laws of 1967; Chapter 436, Session Laws of 1969, are hereby repealed, and all other private, local and special laws and clauses of laws in conflict with this act are hereby repealed to the extent of such conflict.

Sec. 3. This act shall be effective July 1, 1973.

In the General Assembly read three times and ratified, this the 7th day of February, 1973.

S. B. 46

CHAPTER 8

AN ACT TO AMEND THE CHARTER OF THE TOWN OF SWANSBORO.

The General Assembly of North Carolina enacts:

Section 1. Section 3.2 of the revised and consolidated charter of the Town of Swansboro as set forth in Section 1, Chapter 561 of the Session Laws of 1971 is amended by inserting the words "and such authority shall specifically include the power to perform the marriage ceremony" immediately following the word "Town" in line eight thereof.

Sec. 2. All acts performed by the Mayor or Mayor Pro Tempore of the Town of Swansboro within the scope of the above-enumerated powers as amended hereby prior to the effective date of this act are hereby validated.

Sec. 3. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 9th day of February, 1973.

S. B. 75

CHAPTER 9

AN ACT TO AMEND GENERAL STATUTES 7A-500 TO AUTHORIZE COURTS COMMISSION MEMBERS TO HOLD OVER UNTIL THEIR SUCCESSORS ARE APPOINTED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-500 is amended by adding the following sentence at the end thereof: "All incumbents hold over until their successors are appointed."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of February, 1973.

S. B. 74

CHAPTER 10

AN ACT TO AMEND G.S. 42-30 TO CONFORM TO G.S. 7A-218 WHICH PROHIBITS DEFAULT JUDGMENTS IN SMALL CLAIMS CASES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 42-30 is amended by deleting "defendant fails to appear, or" and inserting in lieu thereof "plaintiff proves his case by a preponderance of the evidence, or the defendant".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of February, 1973.

H. B. 92

CHAPTER 11

AN ACT RELATING TO THE GAMES OF "BINGO" AND "SKILO" IN FORSYTH COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It shall be lawful to play or operate the games of "bingo" and "skilo" in Forsyth County in connection with fairs, conventions, bazaars, or exhibitions sponsored by church, religious, civic, charitable, social, patriotic, fraternal or trade associations of the county.

Sec. 2. It shall be lawful for any church, religious, patriotic or fraternal club or association in Forsyth County to play or operate the games of "bingo" and "skilo" in the church, club or organization's club house or meeting rooms.

Sec. 3. All laws and clauses of laws in conflict of this act are hereby repealed.

Sec. 4. This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of February, 1973.

H. B. 161

CHAPTER 12

AN ACT TO AMEND G.S. 14-401.5 TO MAKE THE PRACTICE OF PHRENOLOGY, PALMISTRY, FORTUNE-TELLING OR CLAIRVOYANCE PROHIBITED IN NEW HANOVER COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-401.5 is hereby amended by inserting in the third paragraph thereof, immediately following the word "Nash" and the comma at the end of line six thereof and immediately prior to the word "Northhampton" at the beginning of line seven thereof, the words "New Hanover".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of February, 1973.

H. B. 179

CHAPTER 13

AN ACT TO AMEND G.S. 84-24 PERTAINING TO THE BOARD OF LAW EXAMINERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 84-24 is amended by rewriting the third paragraph to read as follows:

"The Board of Law Examiners shall elect a member of said Board as Chairman thereof, and the Board may employ an Executive Secretary and provide such assistance as may be required to enable said Board to perform its duties promptly and properly. The Chairman and any employees shall serve for such period as said Board may determine."

Sec. 2. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 12th day of February, 1973.

H. B. 40

CHAPTER 14

AN ACT TO AUTHORIZE THE CITY OF GREENSBORO, THE CITY OF HIGH POINT, OR GUILFORD COUNTY BY ORDINANCES TO REGULATE SOIL EROSION.

The General Assembly of North Carolina enacts:

Section 1. The Board of County Commissioners of Guilford County is hereby authorized to make such ordinances as it deems appropriate to prevent soil erosion by requiring the submission of plans in order to control sediment erosion at the site of any construction, landscaping, clearing projects or any other project except normal agricultural operations which in any manner alters the natural structure of the land mass within the county. The Board of County Commissioners may establish by ordinance a sediment control program whereby prior to any alteration of the land mass within the unincorporated portion of the county, a permit must be obtained from the Board of County Commissioners, in the manner prescribed by the ordinance, and in accordance with the criteria and standards for proper sediment control as established by the Board of County Commissioners. Such ordinance may also regulate the alteration of the land mass within the territorial jurisdiction of any municipality whose governing

body by resolution agrees to such regulation; provided, however, that any such municipal governing body may, upon thirty (30) days written notice, withdraw its approval of the county ordinance, and that ordinance shall have no further effect within the municipality's jurisdiction.

Sec. 2. The governing body of the City of Greensboro or High Point is authorized to make such ordinances as it deems appropriate to prevent soil erosion by requiring the submission of plans in order to control sediment erosion at the site of any construction, landscaping, clearing projects or any other project which in any manner alters the natural structure of the land mass within said City of Greensboro or High Point. The governing body of said City may establish by ordinance a sediment control program whereby prior to any alteration of the land mass within the City of Greensboro or High Point, a permit must be obtained from the governing body in the manner prescribed by the ordinance, and in accordance with the criteria and standards for proper sediment control as established by the governing board.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of February, 1973.

H. B. 68

CHAPTER 15

AN ACT TO PROVIDE FOR THE ELECTION OF THE NORTH WILKESBORO SCHOOL BOARD.

The General Assembly of North Carolina enacts:

Section 1. The term of the present members of the North Wilkesboro School Board is hereby extended as follows:

James Clate Duncan, Jr., and George S. Forester, Jr., shall serve until the Tuesday after the first Monday in November, 1973, and until their successors are elected and qualified.

Mrs. W. G. Mitchell and Mrs. Theda H. Moore shall serve until the Tuesday after the first Monday in November 1975, and until their successors are elected and qualified.

Bert E. Joines and H. C. Landon, III, shall serve until the first Tuesday after the first Monday in November, 1977, and until their successors are elected and qualified.

Sec. 2. Beginning with the regular municipal election in 1973, and each two years thereafter, members of the North Wilkesboro School Board shall be elected, as their terms expire, in accordance with Articles 23 and 24 of Chapter 163 of the General Statutes.

Sec. 3. It is the intent of this act that members of the North Wilkesboro School Board shall be elected at the same time and under the same laws applicable to the regular municipal election for Mayor and the Board of Commissioners.

Sec. 4. All laws and clauses of laws in conflict with this act are hereby repealed to the extent of such conflict.

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of February, 1973.

H. B. 203

CHAPTER 16

AN ACT TO AMEND G.S. 20-16(a)(9) RELATIVE TO LICENSE SUSPENSIONS FOR SPEEDING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-16(a)(9) is hereby amended by substituting the figures "80" in place of "75" in lines two and four thereof.

Sec. 2. This act shall become effective on July 1, 1973.

In the General Assembly read three times and ratified, this the 16th day of February, 1973.

H. B. 204

CHAPTER 17

AN ACT TO AMEND G.S. 20-16 RELATIVE TO THE LENGTH OF PROBATION AND LICENSE SUSPENSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-16(c) is hereby amended by rewriting the first two sentences of the last paragraph thereof to read as follows:

"In the discretion of the Department, a period of probation not to exceed one year may be substituted for suspension or for any unexpired period of suspension under subsections (a)(1) through (a)(10a) of this section. Any violation of probation during the probation period shall result in a suspension for the unexpired remainder of the suspension period."

Sec. 2. G.S. 20-16(d) is hereby amended by rewriting the fourth and fifth sentences thereof, as contained in lines 13 through 21, to read as follows:

"Provided further upon such hearing, preliminary or otherwise, involving subsections (a)(1) through (a)(10a) of this section, the Department may for good cause appearing in its discretion substitute a period of probation not to exceed one year for the suspension or for any unexpired period of suspension. Probation shall mean any written agreement between the suspended driver and a duly authorized representative of the Department and such period of probation shall not exceed one year, and any violation of the probation agreement during the probation period shall result in a suspension for the unexpired remainder of the suspension period."

Sec. 3. This act shall become effective on July 1, 1973.

In the General Assembly read three times and ratified, this the 16th day of February, 1973.

H. B. 205

CHAPTER 18

AN ACT TO MAKE THE PROVISIONS OF G.S. 20-17(8) AND G.S. 20-30, RELATIVE TO DRIVERS' LICENSES, APPLICABLE TO LEARNERS' PERMITS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-17(8) is hereby amended by adding in the second line thereof, after the word "license," and before the word "or" the words "or learner's permit,".

Sec. 2. G.S. 20-30 is hereby amended by inserting the words "or learner's permit" after the word "license" in each place it appears in the section.

Sec. 3. This act shall become effective on July 1, 1973.

In the General Assembly read three times and ratified, this the 16th day of February, 1973.

H. B. 206**CHAPTER 19**

AN ACT TO AMEND G.S. 20-24(b) TO CORRECT A TYPOGRAPHICAL ERROR.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-24(b) is hereby amended by deleting the letter “(n)” in the last line thereof, and substituting in lieu thereof the letter “(o)”.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of February, 1973.

S. B. 102**CHAPTER 20**

AN ACT TO AMEND G.S. 45-18 SO AS TO ALTER THE DATE OF VALIDATION OF CERTAIN ACTS OF SUBSTITUTED TRUSTEES IN A DEED OF TRUST FROM JANUARY 1, 1971, TO JANUARY 1, 1973.

The General Assembly of North Carolina enacts:

Section 1. G.S. 45-18, as the same appears in the 1971 Cumulative Supplement of Volume 2A of the General Statutes, is hereby amended by deleting from line 2 the numbers “1971” and inserting therein the numbers “1973”.

Sec. 2. This act shall not apply to pending litigation.

Sec. 3. This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of February, 1973.

H. B. 188**CHAPTER 21**

AN ACT TO MAKE THE GENERAL STATUTES APPLICABLE TO THE TAX COLLECTOR OF GREENE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Upon the expiration of the term of office of the present tax collector of Greene County, his successor shall be appointed as provided in G.S. 105-349, and all of Article 26 of Chapter 105 of the General Statutes shall be applicable to Greene County.

Sec. 2. Chapter 67, Public Local Laws of 1933, and Chapter 225, Session Laws of 1945, are hereby repealed and all laws and clauses of laws in conflict with this act are repealed to the extent of such conflict.

Sec. 3. This act is effective on ratification.

In the General Assembly read three times and ratified, this the 21st day of February, 1973.

H. B. 213

CHAPTER 22

AN ACT TO AMEND CHAPTER 184, PUBLIC-LOCAL LAWS OF 1941 TO PROVIDE THAT THE BOARD OF SCHOOL COMMISSIONERS OF THE ALBEMARLE SPECIAL SCHOOL TAX DISTRICT SHALL BE ELECTED AT THE SAME TIME AS THE GOVERNING BODY OF THE TOWN OF ALBEMARLE.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 184, Public-Local Laws of 1941, is hereby rewritten to read:

“Sec. 2. The election for the members of the Board of School Commissioners shall be held at the same time and under the same laws applicable to municipal elections in the City of Albemarle, beginning with the regular municipal election to be held on Tuesday after the first Monday in November, 1973, as provided in G.S. 163-279(a)(1).”

Sec. 2. Section 3 of Chapter 184, Public-Local Laws of 1941, is hereby rewritten to read:

“Sec. 3. Elections in the Albemarle Special Tax District or Unit shall be in accordance with the municipal election laws contained in Articles 23 and 24 of Chapter 163 of the General Statutes.”

Sec. 3. The term of the present School Board Commissioners whose terms expire during 1973 are hereby extended until their successors are elected and qualified pursuant to this act.

Sec. 4. Sections 4 and 5 of Chapter 184, Public-Local Laws of 1941, are hereby repealed and all laws and clauses of laws in conflict with this act are repealed to the extent of such conflict.

Sec. 5. This act is effective on ratification.

In the General Assembly read three times and ratified, this the 21st day of February, 1973.

S. B. 103

CHAPTER 23

AN ACT TO AMEND G.S. 28-68 TO RAISE FROM ONE THOUSAND DOLLARS TO TWO THOUSAND DOLLARS THE AMOUNT OF INDEBTEDNESS TO AN ESTATE WHICH MAY BE ADMINISTERED BY THE CLERK OF SUPERIOR COURT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 28-68 is amended by deleting “one thousand dollars (\$1,000)” wherever it appears in subsections (a), (b), and (c), and inserting in lieu thereof, in each instance “two thousand dollars (\$2,000)”.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of February, 1973.

S. B. 139

CHAPTER 24

AN ACT TO EXCLUDE SURRY COUNTY IN THE PROVISIONS OF G.S. 67-13 RELATING TO PROCEEDS OF LICENSE TAX ON DOGS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 67-13 is hereby amended by inserting the word "Surry" after the word "Stokes" and before the word "Transylvania".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of February, 1973.

S. B. 166

CHAPTER 25

AN ACT TO PROVIDE THAT THE COUNTY ACCOUNTANT OF AVERY COUNTY SHALL BE APPOINTED, AND TO PROVIDE FOR FILLING VACANCIES IN COUNTY OFFICES.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of any local or special act, the County Accountant of Avery County, upon the expiration of the term of office of the present County Accountant, shall be appointed by the Board of County Commissioners to serve for a term of four years and until his successor is appointed and qualified.

Sec. 2. The County Accountant shall have the duties, powers and responsibilities imposed upon the County Finance Officer in Chapter 159 of the General Statutes. The duties of the County Accountant shall not be imposed upon any other county official or employee.

Sec. 3. Any vacancy occurring in the office of County Accountant shall be filled for the unexpired term by appointment by the County Board of Commissioners.

Sec. 4. Unless prohibited by the Constitution, any vacancy occurring for any reason in any elective county office in Avery County, except judicial offices, shall be filled by appointment by the County Board of Commissioners and the person appointed shall serve for the unexpired term.

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of February, 1973.

H. B. 224

CHAPTER 26

AN ACT TO AMEND CHAPTER 504, SESSION LAWS OF 1961, THE CHARTER OF THE TOWN OF DALLAS, AS IT RELATES TO PUBLIC CONTRACTS.

The General Assembly of North Carolina enacts:

Section 1. Section 16 of Chapter 504, Session Laws of 1961, is amended by deleting the words and figures "one thousand dollars (\$1,000)", and inserting in lieu thereof the words and figures "two thousand five hundred dollars (\$2,500)".

Sec. 2. Section 17 of Chapter 504, Session Laws of 1961 is amended by

deleting the words and figures "one thousand dollars (\$1,000)", and inserting in lieu thereof the words and figures "five thousand dollars (\$5,000)".

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of February, 1973.

S. B. 104

CHAPTER 27

AN ACT TO LIMIT THE IDENTIFICATION RECORDS WHICH MAY BE USED IN DETERMINING WHETHER A BEER SALE IS BEING MADE TO A MINOR.

The General Assembly of North Carolina enacts:

Section 1. G.S. 18A-8(b) is amended by deleting therefrom the words "school identification card."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of February, 1973.

S. B. 106

CHAPTER 28

AN ACT TO MAKE THE PERCENTAGE OF VOTERS REQUIRED FOR LOCATION OF ABC STORES CONFORM TO THE PERCENTAGE REQUIRED FOR THE CALL OF LIQUOR ELECTIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 18A-15(10) is hereby amended by deleting the words and figures "fifteen percent (15%)" and substituting in lieu thereof "twenty percent (20%)".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of February, 1973.

S. B. 111

CHAPTER 29

AN ACT TO AUTHORIZE ALL LAW ENFORCEMENT OFFICERS TO ENFORCE LIQUOR LAWS ON LICENSED PREMISES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 18A-20(b) is amended by adding after "officers," where it first appears the following: "as well as rural police and other local law enforcement officers,".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of February, 1973.

S. B. 116

CHAPTER 30

AN ACT TO REVISE THE GENERAL STATUTES WITH REGARD TO ACTS PROHIBITED BY PERMITTEES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 18A-34(a)(1) is deleted and the following is substituted in lieu thereof:

“(1) Knowingly permit the consumption of any kind of any intoxicating liquors not allowed to be consumed on said premises;”.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of February, 1973.

S. B. 197

CHAPTER 31

AN ACT TO RATIFY, APPROVE, CONFIRM AND VALIDATE ALL PROCEEDINGS TAKEN BY THE BOARD OF COMMISSIONERS FOR THE COUNTY OF TRANSYLVANIA IN CONNECTION WITH THE AUTHORIZATION OF \$4,950,000 SCHOOL BUILDING BONDS OF SAID COUNTY AND THE HOLDING OF AN ELECTION THEREON.

The General Assembly of North Carolina enacts:

Section 1. All proceedings heretofore taken by the Board of Commissioners for the County of Transylvania in connection with the authorization of four million nine hundred fifty thousand dollars (\$4,950,000) School Building Bonds of said county and the calling and holding of an election upon the question of issuing such bonds and levying and collecting a sufficient tax for the payment thereof are hereby ratified, approved, confirmed and in all respects validated, notwithstanding the provisions of G.S. 153-87.

Sec. 2. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 3. This act shall become effective from and after its ratification.

In the General Assembly read three times and ratified, this the 23rd day of February, 1973.

S. B. 117

CHAPTER 32

AN ACT TO REVISE THE LAW REGARDING ABC ELECTIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 18A-51 is rewritten to read as follows:

“G.S. 18A-51. *County elections as to alcoholic beverage control stores.*—No county alcoholic beverage control store shall be established, maintained or operated in any county of this State until and unless there has been held in the county an election as provided herein, and the election shall be held under the same general laws, rules and regulations applicable to elections for county officers, insofar as practicable, provided that no absentee ballots or markers shall be permitted. At this election there shall be submitted to the qualified voters of the county the question of setting up and operating in the county an alcoholic beverage control store, or stores, as herein provided. Those favoring the setting up and operation of alcoholic beverage control stores in the county shall mark in the voting square to the left of the words ‘for county alcoholic beverage control

stores' printed on the ballot, and those opposed to setting up and operating alcoholic beverage control stores in the county shall mark in the voting square to the left of the words 'against county alcoholic beverage control stores,' printed on the same ballot. If a majority of the votes cast in such election shall be for county alcoholic beverage control stores, then an alcoholic beverage control store, or alcoholic beverage control stores, may be set up and operated in the county as herein provided. If a majority of the votes cast at the election are against county alcoholic beverage control stores, then no alcoholic beverage control store shall be set up or operated in the county under the provisions of this Chapter.

The election shall be called in the county by the board of elections of the county only upon the written request of the board of county commissioners therein, or upon a petition to the board of elections signed by a number of voters of the county equal to at least twenty percent (20%) of the number of registered voters of the county according to the registration figures as certified by the board of elections on the date the petition is presented to the county board of elections. In calling the special election, the county board of elections shall give at least 30 days' public notice of the election before the closing of the registration books for said election, and the registration books shall close at the same time as for a regular election. A new registration of voters for such special alcoholic beverage control election is not required, and all qualified electors who are properly registered prior to the registration for the special election, as well as those electors who register for the special alcoholic beverage control election, shall be entitled to vote in the election.

Unless otherwise specified in this section, the procedural requirements relating to the petition shall be as provided in G.S. 18A-52(b), (c), (d), and (e), except the question shall be 'FOR' and 'AGAINST' county alcoholic beverage control stores.

If any county, while operating any alcoholic beverage control store under the provisions of Chapters 418 or 493 of the Public Laws of 1935, or under the terms of this Chapter hereafter under the provisions of this Article holds an election and if at this election a majority of the votes are cast 'against county alcoholic beverage control stores,' then the alcoholic beverage control board in such county shall, within three months from the canvassing of the vote and the declaration of the result thereof, close the stores and shall thereafter cease to operate them. During this period, the county control board shall dispose of all alcoholic beverages on hand, all fixtures, and all other property in the hands and under the control of the county control board and shall convert the same into money and shall, after making a true and faithful accounting, turn all money in its hands over to the general funds of the county.

No election under this section shall be held on the day of any biennial election for county officers, or within 45 days of such an election. The date of any elections held under this section shall be fixed by the board of elections of the county wherein the election is held.

No other election shall be called and held in any of the counties in the State under the provisions of this section within three years from the holding of the last election under this section. In any county in which an election was held either under the provisions of Chapters 418 and 493 of the Public Laws of 1935, an election may be called under the provisions of this section, provided that no

such election shall be called within three years of the holding of the last election.

Nothing herein contained shall be so construed as to require counties in which alcoholic beverage control stores have been established under Chapters 418 or 493 of the Public Laws of 1935 to have any further election in order to enable them to establish alcoholic beverage control stores. Counties in which alcoholic beverage control stores are now being operated under Chapters 418 or 493 of the Public Laws of 1935 shall from February 22, 1937, be operated under the terms of this Chapter."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of February, 1973.

S. B. 118

CHAPTER 33

AN ACT TO MODIFY THE LAW REGARDING LOCAL BEER AND WINE ELECTIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 18A-52(b), (d)(2), (f), the first paragraph of (g) and the first paragraph of (j) are revised to read as follows:

"(b) Such election shall be called in the county or municipality upon written request of the governing body or upon a petition to the appropriate board of elections conducting the election for the county or municipality. If the governing body requests the election, no petition shall be required, but the board of elections shall set a date for the election which shall not be later than 120 days after the written request is filed with the board. Notice of the election as hereinafter provided shall be given. The request shall specify the question or questions and the type of sale to be voted on in the election.

(d)(2) The petition must be signed by a number of voters of the county or municipality equal to at least twenty percent (20%) of the number of registered voters of the county or municipality according to the registration figures as certified by the board of elections on the date the petition is presented to the board of elections.

(f) The election shall be held under the same general laws, rules and regulations, insofar as practicable, as provided for the election of county or municipal officers wherein the election is being held, but no absentee ballots or markers shall be allowed. The opponents and proponents shall have the right to appoint two watchers to attend each voting place. The persons authorized to appoint watchers shall, three days before the election, submit in writing to the registrar of each precinct a signed list of the watchers appointed for that precinct. The persons appointed as watchers shall be registered voters of the precinct for which appointed. The registrar and judges for the precinct may for any good cause reject any appointee and require that another be appointed. Watchers shall do no electioneering at the voting place nor in any manner impede the voting process, interfere or communicate with or observe any voter in casting his ballot. Watchers shall be permitted in the voting place to make such observation and to take such notes as they may desire. No watcher shall enter the voting enclosure or render assistance to a voter. No new registration

shall be required, and all qualified and registered voters shall be entitled to vote in the election.

(g) No election shall be held under this Part within 45 days of the date of any general, special, or primary election to be held in the county or the municipality in which an election under this Part is held. Provided, however, that an election under this Part may be held, in the discretion of the board of elections, on the same day of a general, special, or primary election held within the county or the municipality or an election to determine whether alcoholic beverage control stores shall be established therein.

(j) The ballot shall give the voter the opportunity to vote 'For' or 'Against' the question or questions presented."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of February, 1973.

S. B. 190

CHAPTER 34

AN ACT TO ALLOW THE APPOINTMENT OF A DISTRICT COURT JUDGE TO THE ADVISORY COUNCIL ON ALCOHOLISM TO THE N. C. BOARD OF MENTAL HEALTH.

The General Assembly of North Carolina enacts:

Section 1. G.S. 122-108(2) as the same appears in the 1971 Cumulative Supplement to the General Statutes is hereby amended by inserting the words "district or" immediately after the words "judge of the" in line one of said subdivision.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of February, 1973.

S. B. 281

CHAPTER 35

AN ACT TO PROVIDE FOR THE FILLING OF VACANCIES IN THE GENERAL ASSEMBLY IN MULTI-COUNTY DISTRICTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-11, as the same appears in the 1972 Replacement Volume 3D of the General Statutes, is hereby amended by adding a proviso to read as follows:

"Provided, that in the case of a vacancy in the General Assembly by death, resignation, or otherwise than by expiration of term of a member elected or appointed to represent a multi-county district, the Governor shall appoint for the unexpired portion of the term the person recommended by the State House of Representatives District Committee or the Senatorial District Committee of the political party with which the vacating member was affiliated when elected. The Governor shall make the appointment within seven days of receiving the recommendation of the appropriate committee. If the Governor fails to make the appointment within the required period, he shall be presumed to have made the appointment and the legislative body to which the appointee was recommended is directed to seat the appointee as a member in good standing for the duration of the unexpired term. The County Convention or County Executive Committee of each political party shall elect or appoint at least one

member from each county to serve as State House of Representatives District Committee member and at least one member from each county to serve as Senatorial District Committee member. The State House of Representatives District Committee and the Senatorial District Committee shall be made up of at least one member from each county within the district. The State House of Representatives District Committee shall recommend an appointee to fill a vacancy in the State House of Representatives and the Senatorial District Committee shall recommend an appointee to fill a vacancy in the State Senate. This member shall be entitled to cast for his county one vote for each 300 persons or major fraction thereof residing within the county based upon the last decennial census. Each State House of Representatives District Committee member and each Senatorial District Committee member shall be entitled to cast all the votes allotted to his county, but in the event more than one member is elected from each county, then each member shall cast an equal share of the votes allotted to the county."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of February, 1973.

H. B. 31

CHAPTER 36

AN ACT TO PROVIDE FOR VOLUNTARY ANNEXATION BY THE CITY OF WILMINGTON OF AREAS, TERRITORIES, OR SUBDIVISIONS NOT CONTIGUOUS TO THE MUNICIPAL BOUNDARIES OF THE CITY OF WILMINGTON.

Whereas, Article 36 of Chapter 160 of the General Statutes of North Carolina contains no provision for the annexing of areas, territories or subdivisions not contiguous to the municipal boundaries of the City of Wilmington; and

Whereas, it would be in the interest of the public health, safety and welfare of the inhabitants of said city and would permit a more orderly growth of the municipal boundaries of said city to allow the annexation of noncontiguous areas, territories or subdivisions by petition of the property owners who desire that their property be annexed; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. That the owner or owners of any area, territory or subdivision within the boundaries of New Hanover County but not within the boundaries or extraterritorial jurisdiction of any other municipality, whose property is not contiguous to the municipal boundaries of the City of Wilmington, may, by petition directed to the City Council of the City of Wilmington, request that the property described in the petition be annexed and made a part of the City of Wilmington as hereinafter set out; provided any property annexed as herein provided must be located at the closest point not more than three miles from the City of Wilmington municipal limits wherein is located and situated the City Hall.

Sec. 2. That said petition shall be directed to the City Council of the City of Wilmington and shall contain:

(1) The names of the owners of the real property for which a request to annex is made.

(2) A description of the area to be annexed by metes and bounds.

(3) The signatures of all property owners of the area, territory or subdivision requesting annexation.

In the case of annexing a subdivision under this act, the petition must be signed by all owners of property within the subdivision, provided nothing herein shall be construed to authorize the annexation of a portion of a subdivision.

Upon receipt of the petition, the City Council of the City of Wilmington shall cause the clerk of the municipality to investigate the sufficiency thereof and to certify the results of his investigation.

Upon receipt of the certification and petition, the City Council shall fix dates for two public hearings on the question of annexation and shall cause notice of the public hearings to be published twice in a newspaper having general circulation in the municipality at least ten days prior to the date of the first public hearing, and published in like manner preceding the second public hearing. The second public hearing shall be held at least 20 days after the first public hearing. At such public hearings, all residents of New Hanover County opposing or favoring the annexation or alleging an error in the petition shall be given an opportunity to be heard. The City Council shall then determine whether the petition meets the requirements of this act.

Upon a further finding and determination by the City Council that:

(1) The public health, safety and welfare of the inhabitants of the City of Wilmington, as well as those of the area, territory or subdivision requesting such annexation, will best be served by such annexation, and

(2) The City of Wilmington will be able to provide the same services to the annexed area, territory or subdivision in the same manner in which other areas within the municipal boundaries of said city are served, the City Council of the City of Wilmington may adopt an ordinance annexing that area described in the petition; provided the ordinance annexing the area, territory or subdivision shall be passed at each meeting of the City Council where a public hearing is held as hereinbefore provided. From and after the effective date of said ordinance, which date shall not be less than 90 days from and after the final passage of said ordinance, the area, territory or subdivision and its citizens shall be subject to all debts, laws, ordinances and regulations in force in said City of Wilmington and shall be entitled to the same benefits and privileges of other parts of said city. The newly annexed area, territory or subdivision shall be subject to city taxes for the fiscal year following the effective date of annexation.

Sec. 3. The City Council of the City of Wilmington may make said annexation contingent on such conditions as it may desire in order to insure that the area, territory or subdivision proposed to be annexed will not receive preferential treatment.

Sec. 4. The City Council, in its discretion, may charge in any noncontiguous area, territory or subdivision annexed water or sewer rates in excess of those charged within the municipal limits wherein is located the City Hall, and from time to time the council shall review the expenses related to any noncontiguous area to determine that said expenses are not in excess of taxes and revenues derived therefrom.

Sec. 5. Any area, territory or subdivision annexed pursuant to this act shall cease to be noncontiguous for all intents and purposes when and in the event said area shall touch the municipal limits of the City of Wilmington

pursuant to the extension of the boundaries of said city pursuant to Article 36, Chapter 160 of the General Statutes of North Carolina.

Sec. 6. Any area, territory or subdivision annexed pursuant to this act shall not be included in that area of the municipal boundaries used for determining any extraterritorial jurisdiction of the City of Wilmington and further shall not be considered within the municipal boundaries for the purposes of defining an area as contiguous to the city limits within the provisions of Part 3 of Article 36 of Chapter 160 of the General Statutes of North Carolina with reference to further annexation unless and until the area, territory or subdivision annexed pursuant hereto shall, by extension of the municipal boundaries pursuant to Article 36 of Chapter 160 of the General Statutes of North Carolina, touch and become a part of the municipal boundaries of the City of Wilmington wherein is located the City Hall. Any area, territory or subdivision annexed pursuant hereto may be included at only forty percent (40%) of the normal rate for the purposes of population density or character of any larger area, territory, or subdivision to be annexed at any time in the future pursuant to the provisions of Part 3 of Article 36 of Chapter 160 of the General Statutes of North Carolina.

Sec. 7. The total area of all noncontiguous portions of the city annexed pursuant to this act shall at no time exceed ten percent (10%) of the total area of the City of Wilmington wherein is located the City Hall.

Sec. 8. This act shall be supplemental and in addition to any other methods or procedure for annexation heretofore available or hereafter provided for the City of Wilmington.

Sec. 9. If any clause, sentence, paragraph, subsection, section or any part of this act shall for any reason be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such judgment shall not affect, impair or invalidate the remainder of this act but shall be confined in its operation to the part thereof directly involved in said judgment.

Sec. 10. All laws and clauses of laws in conflict with this act are repealed.

Sec. 11. This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of February, 1973.

S. B. 138

CHAPTER 37

AN ACT TO ABOLISH THE OFFICE OF CORONER IN SURRY COUNTY
UPON THE EXPIRATION OF THE TERM OF THE PRESENT
CORONER.

The General Assembly of North Carolina enacts:

Section 1. The office of Coroner in Surry County is hereby abolished upon the expiration of the term of the present coroner, and Chapter 152 of the General Statutes shall not thereafter be applicable to Surry County.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of February, 1973.

S. B. 255

CHAPTER 38**AN ACT REGULATING THE SALE OF LIVESTOCK AT PUBLIC LIVESTOCK MARKETS.***The General Assembly of North Carolina enacts:*

Section 1. The purpose of the act is to regulate the sale of livestock by auction at public livestock markets and to assure prompt payment for livestock sold.

Sec. 2. This act shall be known by the short title of "North Carolina Livestock Prompt Pay Law".

Sec. 3. As used in this act, unless the context clearly requires otherwise:

(1) "Banking business day" means a day in which banks are normally open for business in North Carolina.

(2) "Commissioner" means the Commissioner of Agriculture of North Carolina or his designated agent or agents.

(3) "Custodial Accounts" means Custodial Accounts for Trust Funds as explained in the Code of Federal Regulations, January 1, 1972, Sec. 201.42.

(4) The "North Carolina Public Livestock Market Advisory Board" means the Board established under G.S. 106-407.1.

(5) "Public Livestock Market" means livestock sales at a market duly licensed under G.S. 104-406.

Sec. 4. The Commissioner shall regulate, by and with the consent of the Board of Agriculture as provided herein, the payment for livestock sold at auction.

Sec. 5. Collection of payment for livestock purchased at auction shall be made by the public livestock market on the same date of purchase of the livestock, and the proceeds therefrom shall be deposited by the public livestock market in their custodial account not later than the next banking business day following the date of sale. Collection for livestock purchased by auction shall be made by cash, check, or draft. There shall be no loans made from the custodial account of any public livestock market to any purchaser of livestock at said sales establishment. Payment shall be made by the public livestock market to the seller of livestock at auction not later than one banking business day after the date of sale of the animal or animals.

Sec. 6. It shall be the duty and responsibility of each public livestock market to report to the Commissioner within 24 hours after having knowledge that a check or draft issued in payment for livestock has been dishonored or that a buyer of livestock at auction has not fulfilled his obligation to pay for livestock within the prescribed time in Section 5 of this act. It shall be the duty and responsibility of the Commissioner to notify all public livestock markets of the fact of dishonor of any such check issued or the failure to honor any draft upon presentation used in payment for livestock or due to the lack of satisfactory payment for livestock.

Sec. 7. The Board of Agriculture shall establish rules and regulations pertaining to the purchase and payment of livestock sold in this State at public livestock markets. The North Carolina Public Livestock Advisory Board shall recommend rules and regulations pertaining to the administration of this act to the Board of Agriculture for their consideration. The Commissioner is authorized to revoke any livestock market operator's license issued or to refuse to issue a livestock market license to any person as hereinafter provided upon

satisfactory proof that said person has repeatedly violated any of the provisions of this act or any of the rules and regulations made and promulgated thereunder; provided that no license shall be revoked or refused until the person, firm or corporation shall have first been given an opportunity to appear at a hearing before the Commissioner or his agent. Any person who is refused a license, or whose license is revoked by any order of the Commissioner, may appeal within thirty (30) days from said order to the Superior Court of Wake County or the superior court of the county of his residence.

Sec. 8. This act shall become effective on July 1, 1973.

In the General Assembly read three times and ratified, this the 28th day of February, 1973.

S. B. 141

CHAPTER 39

AN ACT TO AMEND G.S. 50-8 SO AS TO VALIDATE A DIVORCE PROCEEDING WHICH IS INSTITUTED BY A NON-RESIDENT OF NORTH CAROLINA IN A COUNTY OTHER THAN THE COUNTY OF RESIDENCE OF THE RESIDENT DEFENDANT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 50-8, as the same appears in the 1971 Cumulative Supplement to Volume 2A of the General Statutes, is hereby amended by adding the following sentence at the end of the first paragraph thereof:

“Notwithstanding any other provision of this section, any suit or action for divorce heretofore instituted by a non-resident of this State in which the defendant was personally served with summons and the case was tried and final judgment entered in a court of this State in a county other than the county of the defendant's residence, is hereby validated and declared to be legal and proper, the same as if the suit or action for divorce had been brought in the county of the defendant's residence.”

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of March, 1973.

S. B. 153

CHAPTER 40

AN ACT TO AMEND THE CHARTER OF THE TOWN OF SPRING HOPE IN THE COUNTY OF NASH RELATING TO THE ELECTION OF LOCAL OFFICIALS.

The General Assembly of North Carolina enacts:

Section 1. Section 4 of Chapter 55 of the Private Laws of 1889 is hereby amended to read as follows:

“The Town of Spring Hope, in the County of Nash, is hereby authorized and empowered to hold an election for the office of mayor at the regular municipal elections of November, 1973. The mayor shall be elected for a term of four (4) years.

The Town of Spring Hope, in the County of Nash, is hereby authorized and empowered to hold an election, at the regular municipal elections of November, 1973, to elect a Board of Commissioners composed of five (5) members. The two (2) candidates receiving the highest number of votes at such election shall serve for a term of four (4) years. The three (3) candidates receiving the next highest

number of votes shall serve for a term of two (2) years. At the expiration of such terms, the term of office for all candidates then elected to the Board of Commissioners shall be a period of four (4) years."

Sec. 2. Chapter 48, Private Laws of 1924, and Section 2 of Chapter 207, Private Laws of 1923, are hereby repealed.

Sec. 3. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed to the extent of such conflict.

Sec. 4. This act shall be effective upon its ratification.

In the General Assembly read three times and ratified, this the 1st day of March, 1973.

S. B. 156

CHAPTER 41

AN ACT TO AMEND CHAPTER 8 OF THE GENERAL STATUTES BY REPEALING G.S. 8-52 CONCERNING COMMUNICATIONS BETWEEN ATTORNEY AND CLIENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 8-52 is hereby repealed.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of March, 1973.

S. B. 163

CHAPTER 42

AN ACT TO AMEND THE CHARTER OF THE CITY OF WILSON.

The General Assembly of North Carolina enacts:

Section One of Chapter 136, Session Laws of 1969, constituting the revised and consolidated Charter of the City of Wilson is hereby amended by adding thereto a new Article XVII as follows:

"Article XVII. Eminent Domain.

"Section 17.7. *Powers and Procedures.* The City of Wilson shall have the power of eminent domain and may acquire, either by purchase, gift, or condemnation, any land, right of access, right-of-way, water right, privilege, easement, or any other interest in or relating to land, water, or improvements, either within or without the City limits, for any lawful use or purpose. In the exercise of the power of eminent domain, the City is hereby vested with all power and authority now or hereafter granted by the laws of North Carolina applicable to the City of Wilson, and the City shall follow the procedure now or hereafter prescribed by said laws; provided, that in the exercise of its authority of eminent domain for the acquisition of property to be used for streets and highways, water and sewer facilities, electrical facilities, and gas facilities, the City of Wilson is hereby authorized to use the procedure and authority prescribed in Article IX of Chapter 136 of the General Statutes of North Carolina, as now or hereafter amended; provided further, that whenever therein the words 'Commission' or 'Highway Commission' or 'State Highway Commission' appear, they shall be deemed to include the 'City of Wilson', and whenever therein the words 'Director', 'Chairman', or 'Director of Highways' or 'Director of the Highway Commission', or 'Chairman of the Highway Commission' appear, they shall be deemed to include the 'City Manager';

provided further that nothing herein shall be construed to enlarge the power of the City of Wilson to condemn property already devoted to public use.”

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of March, 1973.

S. B. 165

CHAPTER 43

AN ACT TO AMEND CHAPTER 583 OF THE PUBLIC-LOCAL LAWS OF NORTH CAROLINA, SESSION 1923.

The General Assembly of North Carolina enacts:

Section 1. Chapter 583 Public-Local Laws of North Carolina, Session 1923, entitled, “An Act Authorizing the Creation of Cemetery Trustees for Cities and Towns in North Carolina”, is hereby amended by adding thereto a new Section 14 as follows:

“Sec. 14. The Cemetery Trustees of the City of Wilson, North Carolina, organized and existing pursuant to this act, are hereby authorized to sell, transfer, exchange or lease real or personal property in the same manner as cities and other governmental units pursuant to the provisions of Article XII of Chapter 160A of the General Statutes of North Carolina and any amendment thereto or recodification thereof.”

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of March, 1973.

S. B. 211

CHAPTER 44

AN ACT TO PROVIDE CREDIT FOR ALL TIME SPENT IN CUSTODY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15-176.2 and 15-186.1 as the same appear in the 1971 Cumulative Supplement of the 1965 Replacement Volume 1C of the General Statutes of North Carolina, are hereby repealed, and the following new Article 19A is inserted in lieu thereof:

“Article 19A.

“Credits Against the Service of Sentences
and for Attainment of Prison Privileges.

“§ 15-196.1. *Credits allowed.*—The term of a determinate sentence or the minimum and maximum term of an indeterminate sentence shall be credited with and diminished by the total amount of time a defendant has spent, committed to or in confinement in any State or local correctional, mental or other institution as a result of the charge that culminated in the sentence. The credit provided shall be calculated from the date custody under the charge commenced and shall include credit for all time spent in custody pending trial, trial de novo, appeal, retrial, or pending parole and probation revocation hearing: Provided, however, the credit available herein shall not include any time that is credited on the term of a previously imposed sentence to which a defendant is subject.

“§ 15-196.2. *Allowance in cases of multiple sentences.*—In the event time creditable under this section shall have been spent in custody as the result of more than one pending charge, resulting in imprisonment for more than one

offense, credit shall be allowed as herein provided. Consecutive sentences shall be considered as one sentence for the purpose of providing credit, and the creditable time shall not be multiplied by the number of consecutive offenses for which a defendant is imprisoned. Each concurrent sentence shall be credited with so much of the time as was spent in custody due to the offense resulting in the sentence. When both concurrent and consecutive sentences are imposed, both of the above rules shall obtain to the applicable extent.

“§ 15-196.3. *Effect of credit.*—Time creditable under this section shall reduce the determinate term or the minimum and maximum term of an indeterminate sentence; and, irrespective of sentence, shall reduce the time required to attain privileges made available to inmates in the custody of the State Department of Correction which are dependent, in whole or in part, upon the passage of a specific length of time in custody, including parole consideration by the State Board of Paroles. However, nothing in this section shall be construed as requiring an automatic award of privileges by virtue of the passage of time.

“§ 15-196.4. *Procedures for judicial award.*—Upon sentencing or activating a sentence, the judge presiding shall determine the credits to which the defendant is entitled and shall cause the clerk to transmit to the custodian of the defendant a statement of allowable credits. Upon committing a defendant upon the conclusion of an appeal, or a parole or probation revocation, the committing authority shall determine any credits allowable on account of these proceedings and shall cause to be transmitted, as in all other cases, a statement of the allowable credit to the custodian of the defendant. Upon reviewing a petition seeking credit not previously allowed, the court shall determine the credits due and forward an order setting forth the allowable credit to the custodian of the petitioner.”

Sec. 2. This act shall become effective upon ratification. This act is applicable to all prisoners, including those convicted prior to its enactment who are entitled to, but who have not heretofore received all such allowable credit.

In the General Assembly read three times and ratified, this the 1st day of March, 1973.

S. B. 257

CHAPTER 45

AN ACT RELATING TO THE COMPOSITION OF THE WINSTON-SALEM/FORSYTH COUNTY JOINT PLANNING BOARD.

The General Assembly of North Carolina enacts:

Section 1. The second sentence in the second paragraph of Section 16 of Chapter 677 of the 1947 Session Laws is hereby amended by placing a comma after the word “members” the first time said word appears in said sentence, deleting the remainder of said sentence, and substituting for the deleted portion the following: “who are residents of the County, who shall hold no other public office with the City or County, and not more than five of whom shall reside within the corporate limits of the City of Winston-Salem.”

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of March, 1973.

S. B. 279

CHAPTER 46

AN ACT TO AMEND CHAPTER 278 OF THE SESSION LAWS OF 1971,
AFFECTING THE TOWN OF CLINTON.

The General Assembly of North Carolina enacts:

Section 1. Chapter 278 of the Session Laws of 1971 is amended by striking the words and figures "six hundred dollars (\$600.00)" in Section 1 and substituting in lieu thereof the words and figures "nine hundred dollars (\$900.00)".

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 1st day of March, 1973.

S. B. 123

CHAPTER 47

AN ACT TO ALLOW SOLICITORS, ASSISTANT SOLICITORS, ACTING
SOLICITORS, AND SOLICITORIAL DISTRICTS TO BE DESIGNATED
BY TERMS UNDERSTANDABLE TO THE GENERAL PUBLIC.

The General Assembly of North Carolina enacts:

Section 1. Article 9 of Chapter 7A of the General Statutes of North Carolina is amended by adding a new section to be designated as G.S. 7A-66.1 to read as follows:

"§7A-66.1. *Office of solicitor may be denominated as office of district attorney; 'solicitor' and 'district attorney' made interchangeable; solicitorial districts may be denominated 'judicial districts'; interchangeable use authorized in proceedings, documents, and quotations.*—(a) The constitutional office of solicitor may be denominated as the office of 'district attorney' for all purposes, and the terms 'solicitor' and 'district attorney' shall be identical in meaning and interchangeable in use. All terms derived from or related to the term 'solicitor' may embody this denomination.

(b) Every solicitorial district may be denominated as 'judicial district' for all purposes, and the terms 'solicitorial district' and 'judicial district' shall be identical in meaning and interchangeable in use.

(c) The interchangeable use authorized in this section includes use in all forms of oral, written, visual, and other communication including:

- (1) Oaths of office;
- (2) Other oaths or orations required or permitted in court or official proceedings;
- (3) Ballots;
- (4) Statutes;
- (5) Regulations;
- (6) Ordinances;
- (7) Judgments and other court orders and records;
- (8) Opinions in cases;
- (9) Contracts;
- (10) Bylaws;
- (11) Charters;
- (12) Official commissions, orders of appointment, proclamations, executive

orders, and other official papers or pronouncements of the Governor or any executive, legislative, or judicial official of the State or any of its subdivisions;

(13) Official and unofficial letterheads;

(14) Campaign advertisements;

(15) Official and unofficial public notices; and

(16) In all other contexts not enumerated.

The interchangeability authorized in this section extends to the privilege of substituting terminology in matter quoted in oral, written, and other modes of communication without making indication of such change, except where such change may result in a substantive misunderstanding. Reprints or certifications of the text of the Constitution of North Carolina made by the Secretary of State, however, must retain the original terminology and indicate in brackets beside the original terminology the appropriate alternative words."

Sec. 2. The Michie Company or any successor or additional publisher of codifications of the Constitution, General Statutes, and rules of court of North Carolina is directed in reprinting or revising its editions, in consultation with the Department of Justice, to substitute where appropriate the terminology authorized in this act. Sections and subsections of codifications need not be reprinted in supplements solely to achieve the substitution of terminology hereby directed, but it is the intention of the General Assembly that such substitution of terminology be effected as amendments are made for other purposes and as recompiled volumes are issued. The wording of annotations need not be altered, but if the annotations to a section of a codification use "solicitor" or any related term with any frequency a note reflecting the interchangeability of terminology should be inserted in due course.

Sec. 3. This act takes effect upon ratification.

In the General Assembly read three times and ratified, this the 5th day of March, 1973.

S. B. 206

CHAPTER 48

AN ACT TO PLACE ONSLOW COUNTY UNDER THE GENERAL LAW REGARDING BAIL BONDSMEN AND RUNNERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 85A-34 is hereby amended by adding Onslow County to the list of counties to which Chapter 85A of the General Statutes is applicable.

Sec. 2. This act shall become effective upon May 1, 1973.

In the General Assembly read three times and ratified, this the 5th day of March, 1973.

H. B. 13

CHAPTER 49

AN ACT TO AMEND G.S. 105-4, RELATING TO INHERITANCE TAX EXEMPTIONS, TO PROVIDE THAT THE EXEMPTIONS FOR SURVIVING HUSBANDS SHALL BE THE SAME AS FOR SURVIVING WIVES.

The General Assembly of North Carolina enacts:

Section 1. Subsection (b) of G.S. 105-4 is hereby amended by striking out the word "Widows" in line two and by substituting in lieu thereof the words "Surviving spouses".

Sec. 2. This act shall become effective July 1, 1973, and shall apply to estates of all persons dying on or after that date.

In the General Assembly read three times and ratified, this the 5th day of March, 1973.

H. B. 79

CHAPTER 50

AN ACT TO AMEND G.S. 7A-375 TO PROVIDE FOR ALTERNATE AND HOLDOVER MEMBERS ON THE JUDICIAL STANDARDS COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-375 is amended by adding the following new subsections at the end thereof:

"(c) If a member of the Commission who is a judge becomes disabled, or becomes a respondent before the Commission, the Chief Justice shall appoint an alternate member to serve during the period of disability or disqualification. The alternate member shall be from the same division of the General Court of Justice as the judge whose place he takes. If a member of the Commission who is not a judge becomes disabled, the Governor, if he appointed the disabled member, shall appoint, or the State Bar Council, if it elected the disabled member, shall elect, an alternate member to serve during the period of disability. In a particular case, if a member disqualifies himself, or is successfully challenged for cause, his seat for that case shall be filled by an alternate member selected as provided in this subparagraph.

(d) A member may serve after expiration of his term only to participate until the conclusion of a formal proceeding begun before expiration of his term. Such participation shall not prevent his successor from taking office, but the successor may not participate in the proceeding for which his predecessor's term was extended. This subsection shall apply also to any judicial member whose membership on the Commission is automatically terminated by retirement or resignation from judicial office, or expiration of the term of judicial office."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of March, 1973.

H. B. 148

CHAPTER 51

AN ACT TO AMEND THE INHERITANCE TAX LAWS RELATING TO PREPAYMENT OF INHERITANCE TAXES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-8 is hereby rewritten to read as follows:

“§ 105-8. *Treatment allowed for gift tax paid.*—In case a tax has been imposed under Schedule G of the Revenue Act of 1937, or under subsequent acts, upon any gift, and thereafter upon the death of the donor, the amount thereof is required by any provision of this Article to be included in the gross estate of the decedent, then there shall be credited against and applied in reduction of the tax, which would otherwise be chargeable against the beneficiaries of the estate under the provisions of this Article, an amount equal to the tax paid with respect to such gift. Any additional tax found to be due because of the inclusion of gifts in the gross estate of the decedent, as provided herein, shall be a tax against the estate and shall be paid out of the same funds as any other tax against the estate.”

Sec. 2. This act shall become effective upon its ratification and shall apply to estates of all persons dying on or after that date.

In the General Assembly read three times and ratified, this the 5th day of March, 1973.

H. B. 149

CHAPTER 52

AN ACT TO AMEND G.S. 20-81.5 TO PROVIDE THAT A MEMBER OF THE CIVIL AIR PATROL MAY PURCHASE NOT MORE THAN TWO CIVIL AIR PATROL PLATES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-81.5 is hereby amended by deleting the word “one” after the word “with” and before the word “thereof” in line three and inserting in lieu thereof “not more than two”.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of March, 1973.

H. B. 195

CHAPTER 53

AN ACT TO AMEND G.S. 103-4 TO PROVIDE THAT NOVEMBER 11 SHALL BE DESIGNATED THE OFFICIAL PUBLIC HOLIDAY AS THE CELEBRATION OF VETERANS DAY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 103-4(a)(12) is hereby rewritten to read as follows:

“(12) Veterans Day, November 11.”

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of March, 1973.

H. B. 314

CHAPTER 54

AN ACT TO PROVIDE FOR FILLING VACANCIES IN THE BOARD OF COUNTY COMMISSIONERS WHEN THE PERSON CAUSING THE VACANCY WAS NOT AFFILIATED WITH ANY POLITICAL PARTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153-6 is amended by rewriting the second sentence of the first paragraph thereof to read as follows:

"If the county is divided into districts for election of the board, the person appointed to fill a vacancy shall be a resident of the same district as the member causing the vacancy. If the member causing the vacancy was elected as the nominee of a political party, the person appointed to fill the vacancy shall be a member of that political party."

Sec. 2. This act becomes effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of March, 1973.

S. B. 14

CHAPTER 55

AN ACT TO DESIGNATE THE HONEYBEE AS THE INSECT OF THE STATE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 145 of the North Carolina General Statutes is amended by adding a new section, as follows:

"The honeybee is hereby adopted as the official State insect of the State of North Carolina."

Sec. 2. This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of March, 1973.

S. B. 115

CHAPTER 56

AN ACT TO CLARIFY THE LAW REGARDING SALES OF BEER AND WINE ON PREMISES WITH OFF-PREMISES PERMITS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 18A-33 is amended by adding to the catchline the words "sales by off-premises permittees".

Sec. 2. G.S. 18A-33 is further amended by adding a new subsection(c) to read as follows:

"(c) It shall be unlawful to consume malt beverages on any premises having only an off-premises malt beverage permit; and it shall also be unlawful to consume wine (fortified or unfortified) on any premises having only an off-premises permit for the type of wine being so consumed."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of March, 1973.

H. B. 80

CHAPTER 57

AN ACT TO AMEND G.S. CHAPTER 153, ARTICLE 15 TO ELIMINATE OBSOLETE NOMENCLATURE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153-188 is amended by deleting “, constables,” in line one.

Sec. 2. G.S. 153-189 is rewritten to read as follows: “Whenever there happens to be no jail, or when there is an unfit or insecure jail, in any county, the judicial officers of such county may commit all persons brought before them, whether in a criminal or civil proceeding, to the jail of any adjoining county, for the same causes and under the like regulations that they might have ordered commitments to the usual jail; and the sheriffs and other officers of such county in which there is no jail, or an unfit one, and the sheriffs or keepers of the jails of the adjoining counties, shall obey any order of commitment so made. Any officer failing to obey such order shall be guilty of a misdemeanor.”

Sec. 3. G.S. 153-190 is rewritten to read as follows: “When the jail of any county is destroyed by fire or other accident, any judge or magistrate of such county may cause all prisoners then confined therein to be brought before him; and upon the production of the process under which any prisoner was confined shall order his commitment to the jail of any adjacent county; and the sheriff or other officer of the county deputized for that purpose shall obey the order; and the sheriff or keeper of the common jail of such adjacent county shall receive such prisoners. Any officer failing to obey such order of commitment shall be guilty of a misdemeanor.”

Sec. 4. G.S. 153-194 is amended by repealing the second paragraph thereof.

Sec. 5. G.S. 153-181, 153-185, and 153-186 are repealed.

Sec. 6. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of March, 1973.

H. B. 183

CHAPTER 58

AN ACT TO AMEND THE DEFINITION OF PRIVATE PASSENGER AUTOMOBILE IN G.S. 20-135.4(a).

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-135.4(a) is hereby amended and rewritten to read as follows:

“(a) Definitions. For the purposes of this section, the term ‘private passenger automobile’ shall mean a four-wheeled motor vehicle designed principally for carrying passengers, for use on public roads and highways, except a multi-purpose passenger vehicle which is constructed either on a truck chassis or with special features for occasional off-road operation.”

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of March, 1973.

H. B. 248

CHAPTER 59

AN ACT TO AMEND G.S. 20-185 TO MAKE THE BENEFITS PROVIDED BY THAT SECTION AVAILABLE TO DRIVER LICENSE EXAMINERS GIVING ROAD TESTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-185(f) is hereby amended by adding the following sentence at the end thereof:

“The benefits provided for members of the State Highway Patrol under the provisions of subsections (b), (c), (d), and (e) of this section shall be granted to incapacitated driver license examiners, if such total or partial incapacity is the result of an injury by accident arising out of and in the course of giving a road test.”

Sec. 2. This act shall become effective on July 1, 1973.

In the General Assembly read three times and ratified, this the 5th day of March, 1973.

H. B. 268

CHAPTER 60

AN ACT RELATING TO THE PROCEDURE FOR THE REGISTRATION OF DOCUMENTS TO WHICH THE REGISTER OF DEEDS IS A PARTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 47-14 is hereby amended by adding a new subsection at the end thereof to read as follows:

“(e) Any instrument required or permitted by law to be registered in which the register of deeds of the county of registration is a party may be proved or acknowledged before any magistrate or any notary public. Any such instrument presented for registration shall be examined by the clerk of superior court of the county of registration and if it appears that the execution and acknowledgment are in due form he shall so certify and the instrument shall then be recorded in the office of the register of deeds.”

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective on October 1, 1973.

In the General Assembly read three times and ratified, this the 5th day of March, 1973.

H. B. 285

CHAPTER 61

AN ACT TO AMEND ARTICLE 5, CHAPTER 115, SECTION 19, TO PROVIDE FOR THE ELECTION OF THE BOARD OF EDUCATION OF MONTGOMERY COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115-19, is hereby amended by adding at the end thereof, the following:

“The Board of Education of Montgomery County shall consist of five members, to be elected on a nonpartisan basis at primary elections by the voters of the entire County, and the present members of the Board of Education shall

continue to hold office until their successors are elected and qualified as herein provided.

One member of the Board of Education shall be a resident of each of the five school attendance areas of Montgomery County, as follows: The attendance areas of Star, Biscoe, Candor, Mount Gilead, and Troy.

At the primary election to be held in Montgomery County in 1974, there shall be elected three members of the Board of Education, one each from the Candor, Mount Gilead and Troy School attendance areas who shall hold office for a term of four years and until their successors are elected and qualified. At the primary election to be held in Montgomery County in 1976, there shall be elected two members of the Board of Education, one each from the Star and Biscoe school attendance areas, who shall hold office for a term of four years and until their successors are elected and qualified.

Thereafter and biennially there shall be elected at primary elections members of the Board of Education to take the place of the members whose terms next expire, and the persons so elected shall serve for terms of four years."

Sec. 2. The provisions of Article 5, Chapter 115 of the General Statutes, shall apply to the Montgomery County Board of Education except as modified by this act.

Sec. 3. Chapter 950 of the 1961 Session Laws, and all other laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 4. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 6th day of March, 1973.

H. B. 286

CHAPTER 62

AN ACT TO CONFIRM AND APPOINT MEMBERS OF THE MONTGOMERY COUNTY BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. That Mrs. Charles F. Scarborough, Jr. and Larry A. Preslar, who were elected on a nonpartisan basis at the primary election in 1972 but contrary to Chapter 950 of the 1961 Session Laws, be and they are hereby confirmed and appointed members of the County Board of Education for Montgomery County for a term of four years, and to serve until their successors are elected and qualified, and otherwise provided by law.

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 6th day of March, 1973.

H. B. 386

CHAPTER 63

AN ACT TO AMEND G.S. 115-133.2 TO AUTHORIZE THE BOARD OF EDUCATION OF PITT COUNTY TO OFFER REWARD FOR DAMAGE TO SCHOOL PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115-133.2 is hereby amended by deleting in line two the words "in an amount not exceeding fifty dollars (\$50.00)" and inserting in lieu thereof the words "in their discretion an amount up to but not exceeding one thousand dollars (\$1,000)".

Sec. 2. This act shall apply only to Pitt County.

Sec. 3. This act is effective on ratification.

In the General Assembly read three times and ratified, this the 6th day of March, 1973.

H. B. 406

CHAPTER 64

AN ACT TO AUTHORIZE THE BOARD OF COUNTY COMMISSIONERS OF BUNCOMBE COUNTY TO APPROPRIATE FOR THE USE OF ELIADA HOME FOR CHILDREN IN BUNCOMBE COUNTY A SUM NOT IN EXCESS OF TWENTY THOUSAND DOLLARS PER YEAR.

The General Assembly of North Carolina enacts:

Section 1. The Board of County Commissioners of Buncombe County is hereby authorized and empowered to appropriate and pay to the Eliada Home for Children in Buncombe County a sum which shall not be in excess of twenty thousand dollars (\$20,000) per year during each fiscal year of the biennium 1973-1975.

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 6th day of March, 1973.

H. B. 419

CHAPTER 65

AN ACT TO AMEND G.S. 47-17.1 SO AS TO REQUIRE THAT CERTAIN PAPERS AND DOCUMENTS REGISTERED IN JACKSON COUNTY SHOW THEREON THE NAME OF THE DRAFTSMAN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 47-17.1 is hereby amended by inserting in line 15 thereof after the word "Graham" and before the word "Johnston" the word and punctuation "Jackson,".

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 6th day of March, 1973.

S. B. 79

CHAPTER 66

AN ACT TO CONFORM THE PROVISIONS OF GENERAL STATUTES
CHAPTER 1, ARTICLE 37 (INJUNCTIONS) TO THE
JURISDICTIONAL PROVISIONS OF THE JUDICIAL DEPARTMENT
ACT OF 1965, AS AMENDED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1-485 is amended by inserting in line three after the words "judge of superior court" the words "or any judge of the district court authorized to hear in-chambers matters".

Sec. 2. G.S. 1-493 is rewritten to read as follows: "All judges of the superior court and judges of the district court authorized to hear in-chambers matters have jurisdiction to grant injunctions and issue restraining orders in all civil actions and proceedings pending in their respective divisions."

Sec. 3. G.S. 1-494 is amended by adding thereto a second paragraph to read as follows:

"All restraining orders and injunctions granted by any judge of the district court shall be made returnable before the judge granting such order or injunction or before the chief district judge or a district judge authorized to hear in-chambers matters in the district where the civil action is pending, within twenty (20) days from the date of the order. If the judge before whom the matter is returned fails, for any reason, to hear the motion and application on the date set, or within ten (10) days thereafter, any district judge of the district authorized to hear in-chambers matters may hear and determine the said motion and application, after giving 10 days' notice to the parties interested in the application or motion."

Sec. 4. G.S. 1-495 is amended by inserting in line three after the word "judge" the words "of the appropriate trial division," and changing the comma after "issued" in line eight to a period and deleting all words thereafter.

Sec. 5. G.S. 1-498 is amended by inserting in the second line after the word "injunctions" the words "issued in the superior court division" and by adding a second paragraph to the end of the section to read as follows:

"Applications to extend, modify, or vacate temporary restraining orders and preliminary injunctions issued in the district court division may be heard by the district judge who made the original order or by the chief district judge or by a district judge of the district authorized to hear in-chambers matters."

Sec. 6. All laws and parts of laws in conflict with this act are repealed.

Sec. 7. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of March, 1973.

S. B. 308

CHAPTER 67**AN ACT TO CREATE THE MADISON MEDICAL FACILITY AUTHORITY.***The General Assembly of North Carolina enacts:*

Section 1. There is hereby created a Madison Medical Facility Authority.

Sec. 2. The Madison Medical Facility Authority shall be composed of a chairman and six (6) members who shall be well known for their character, ability, and business acumen. In addition to the above membership, a member of the Board of Aldermen, and two (2) licensed physicians practicing medicine in the Town of Madison, shall serve on the Madison Medical Facility Authority, as ex officio members. The chairman and all members of the said Madison Medical Facility Authority shall be appointed by and serve at the will of the Board of Aldermen. The Board of Aldermen shall designate one of the members of the Madison Medical Facility Authority to serve as its chairman. No member of the said Madison Medical Facility Authority shall receive any compensation for serving on said Authority. The Madison Medical Facility Authority shall hold regular meetings and all minutes of its meetings shall be kept and maintained, and said minutes shall be sent to the Board of Aldermen of the Town of Madison.

Sec. 3. The Madison Medical Facility Authority shall receive thirty-five percent (35%) of the A.B.C. net profits, after the costs of law enforcements have been deducted, from the Town of Madison Board of Alcoholic Control, and may receive any other properties and funds which may hereafter be distributed or given to the Madison Medical Facility Authority from any private foundation, firm, corporation, association, or individuals, for the following exclusive use:

"The establishment, construction, and maintenance of a medical clinic, which may include emergency room and diagnostic facilities and offices for physicians, doctors, and surgeons, for the reception, and treatment of persons who may need the medical attention and treatment of physicians, doctors, or surgeons, including the purchase of the necessary appliances and equipment therefor."

Sec. 4. The Madison Medical Facility Authority shall have the following powers and authority:

(a) To construct, erect and maintain a medical facility in the Town of Madison for offices of physicians, doctors, surgeons; for the reception and treatment of persons who may need the medical attention and treatment of a physician, doctor, or surgeon, and including the purchase of the necessary appliances and equipment therefor.

(b) To hold and continue to hold as an investment the moneys and funds received hereunder, and any additional property which may be received by it, so long as it may deem proper, and to invest and reinvest in any securities or property, which are fully insured by the United States Government (but excluding any and all common stocks) deemed by it for the best interest of the Madison Medical Facility Authority.

(c) To purchase any land or real estate in its name from any funds on hand.

(d) To rent, lease, sell and convey any of the property belonging to the Madison Medical Facility Authority, or to exchange the same for other property, for such price or prices and upon such terms as the members in their discretion and judgment may deem for the best interest of said Madison Medical

Facility Authority, and to execute any deed or deeds (with or without warranty) receipts, releases, contracts, or other instruments necessary in connection therewith.

(e) To borrow money and mortgage property in its name, and create a security interest in, or pledge any of its property, as security therefor.

(f) To make all necessary repairs on any and all property owned by it, and to have same fully insured for all casualty losses.

(g) To sue and be sued in its own name.

Sec. 5. The Madison Medical Facility Authority shall have no right, power, or authority to bind or obligate the Town of Madison in any contracts, civil actions, or tort claims, except to the extent of the funds contributed to the Madison Medical Facility Authority by the Madison Board of Alcoholic Control.

Sec. 6. In the event that at the end of 10 years from January 1, 1973, there has been no construction or erection of a medical facility within the Town of Madison, all moneys, funds, and property held by the Madison Medical Facility Authority shall be distributed and conveyed to the Town of Madison, and the Madison Medical Facility Authority shall be abolished and terminated.

Sec. 7. In the event that there is constructed and erected a Madison Medical Facility as set forth in Section 3 above, within 10 years from January 1, 1973, the Madison Medical Facility Authority shall continue in existence to run and manage said facility for the best interest of the said Town of Madison.

Sec. 8. No member of the said Madison Medical Facility Authority shall have any personal interest, either directly or indirectly, in the Madison Medical Facility Authority.

Sec. 9. After completion of the construction of the Madison Medical Facility, the Madison Medical Facility Authority, after retaining sufficient cash and moneys for maintenance and operation of said facility, shall distribute all other cash and securities and principal funds to the Town of Madison, and each year thereafter shall, after retaining therefrom sufficient cash for the operation and maintenance of said facility, distribute all of the net income and rental receipts therefrom to the Town of Madison.

Sec. 10. The Board of Aldermen of the Town of Madison shall have the right and authority at any time to abolish the Madison Medical Facility Authority, and all of the property and funds held by and belonging to said Madison Medical Facility Authority shall become the property of the Town of Madison with three-fourths vote of the full board.

Sec. 11. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of March, 1973.

S. B. 313

CHAPTER 68

AN ACT RELATING TO THE TERMS OF OFFICE OF THE COUNTY COMMISSIONERS OF UNION COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The Board of County Commissioners of Union County shall be composed of five members who shall be elected for a term of four years.

Sec. 2. At the election of County Commissioners to be held in 1974, the three candidates receiving the highest number of votes shall be elected for terms of four years and the two candidates receiving the next highest number of votes shall be elected for terms of two years. At the expiration of these initial terms, all members shall be elected for four-year terms.

Sec. 3. All other laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of March, 1973.

H. B. 189

CHAPTER 69

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE CITY OF GOLDSBORO AND TO REPEAL EXISTING CHARTER AND SPECIAL ACTS.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the City of Goldsboro is hereby revised and consolidated to read as follows:

"THE CHARTER OF THE CITY OF GOLDSBORO

"ARTICLE 1. INCORPORATION AND CORPORATE POWERS

"Sec. 1.1. *Incorporation and General Powers.* The inhabitants of the City of Goldsboro, within the corporate limits as now or hereafter established shall be and continue as they have heretofore been a municipal body politic and corporate, under the name of the City of Goldsboro. The City of Goldsboro shall have all the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the Constitution, by the general laws of the State of North Carolina and by this Charter. The enumeration of particular powers by the Charter shall not be deemed to be exclusive, and it is intended that the City of Goldsboro shall have and exercise all powers which, under the Constitution and the laws of the State of North Carolina, it would be competent for this Charter specifically to enumerate.

"ARTICLE II. CORPORATE BOUNDARIES

"Sec. 2.1. *Existing Corporate Boundaries.* (a) The corporate limits of the City shall be those existing at the time of the ratification of this Charter and as the same may be altered from time to time in accordance with law. The City Engineer shall prepare a map to be designated 'Map of the City of Goldsboro Corporate Limits' showing the corporate limits as the same may exist as of the effective date of this Charter. The City Engineer shall also prepare a written description of the corporate limits as shown on said map to be designated 'Description of Goldsboro Corporate Limits'. Said map and description shall be retained permanently in the office of the City Clerk as the official map and a description of the corporate limits of the City. Immediately upon alteration of

the corporate limits made pursuant to law from time to time the City Engineer shall indicate such alteration by making appropriate changes and/or additions to said official map and description. Photographic types or other copies of said official map or description certified as by law provided for the certification of ordinances shall be admitted in evidence in all courts and shall have the same force and effect as would the official map or description.

(b) The City Clerk shall require the redrawing of the official map and the rewriting of the official description as may from time to time be required. A redrawn map and a rewritten description shall supersede for all purposes the earlier maps and descriptions which are respectively replaced.

“Sec. 2.2. *Extension of Corporate Boundaries.* All extensions of the corporate boundaries shall be governed by the General Statutes of North Carolina.

“ARTICLE III. MAYOR AND BOARD OF ALDERMEN

“Sec. 3.1. *Composition of Board of Aldermen.* The Board of Aldermen shall consist of five members to be elected by the qualified voters of the City voting at large in the manner provided in Article IV.

“Sec. 3.2. *Mayor and Mayor Pro Tempore.* The Mayor shall be elected by and from the qualified voters of the City voting at large in the manner provided in Article IV. The Mayor shall be the official head of the city government and shall preside at all meetings of the Board of Aldermen. Where there is an equal division on a question, the Mayor shall determine the matter by his vote, but he shall vote in no other case. The Mayor shall exercise such powers and perform such duties as are or may be conferred upon him by the general laws of North Carolina, by this Charter, and by the ordinances of the City. The Board of Aldermen shall choose one of its number to act as Mayor Pro Tempore, and he shall perform the duties of the Mayor in the Mayor's absence or disability. The Mayor Pro Tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the Board.

“Sec. 3.3. *Terms; Qualifications; Vacancies.* (a) The Mayor and members of the Board of Aldermen shall serve for terms of two years, beginning the day and hour of the organizational meeting following their election; provided, they shall serve until their successors are elected and qualify.

(b) No person shall be eligible to be a candidate or be elected as Mayor or as a member of the Board of Aldermen or to serve in such capacity, unless he is a resident and a qualified voter of the City.

(c) In the event a vacancy occurs in the office of Mayor or Aldermen, the Board of Aldermen shall by majority vote appoint some qualified person to fill the same for the remainder of the unexpired term.

“Sec. 3.4. *Compensation of Mayor and Aldermen.* The Board may fix its own compensation and the compensation of the Mayor and any other elected officers of the City, in such sums as may be just and reasonable. The salary of an elected officer may not be reduced during the then current term of office, unless he agrees thereto.

“Sec. 3.5. *Organization of Board; Oaths of Office.* The organizational meeting of the Board of Aldermen shall be the first regular meeting after the regular city election. At the organizational meeting, the newly elected Mayor and Aldermen shall take the following oath of office:

‘I, _____, do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States, and the Constitution

and laws of North Carolina inconsistent therewith, and that I will faithfully discharge the duties of my office as _____, so help me God'.

The organization of the Board shall take place notwithstanding the absence, death, refusal to serve, failure to qualify, or non-election of one or more members, but at least a quorum of the members must be present.

"Sec. 3.6. *Meetings of Board of Aldermen.* (a) The Board of Aldermen shall fix suitable times for its regular meetings which shall be as often as twice monthly. Special meetings may be called in accordance with the procedure set forth in the general law dealing with special meetings of municipalities.

(b) Except where otherwise specifically provided by this Charter, the Board shall have authority to determine the time and place of Board meetings, to make such provisions as it may deem wise relative to regular, special, adjourned and continued meetings, to adopt rules of procedure, and generally to regulate the time, place, manner and method of the exercise of its powers. All meetings shall be held within Wayne County, except in the case of an emergency. In the event the Board is authorized or required by law to hold a joint meeting with the governing body of another municipality or political subdivision of the State of North Carolina, it may at its election meet with the other governing body at a designated place within the area subject to the jurisdiction of the other governing body.

"Sec. 3.7. *Quorum; Votes.* (a) A majority of the members elected to the Board of Aldermen shall constitute a quorum for the conduct of business, but a less number may adjourn from time to time and compel the attendance of absent members in such manner as may be prescribed by ordinance. The number required for a quorum shall not be affected by vacancies. A member who has withdrawn from a meeting without being excused by majority vote of the remaining members present shall be counted as present for purposes of determining whether or not a quorum is present.

(b) An affirmative vote equal to a majority of all the members of the Board of Aldermen not excused from voting on the question (including the Mayor's vote in case of equal division) shall be required to adopt any ordinance or any resolution or motion having the effect of an ordinance. In addition, no ordinance nor any action having the effect of any ordinance may be finally adopted on the date it is introduced except by an affirmative vote equal to or greater than two-thirds (2/3) of all the members of the Board (not including the Mayor, unless he has the right to vote on all questions before the Board). No member shall be excused from voting except on matters involving the consideration of his own official conduct or involving his financial interests. The question of the compensation and allowances of members of the Board shall not be considered to involve a member's own financial interest or official conduct.

"Sec. 3.8. *Ordinances and Resolutions.* The adoption, amendment, repeal, pleading, or proving of ordinances shall be in accordance with the applicable provisions of the general laws of North Carolina not inconsistent with this Charter. The yeas and nays shall be taken upon all ordinances and resolutions and entered upon the minutes of the Board. The enacting clauses of all ordinances shall be: 'Be it ordained by the Board of Aldermen of the City of Goldsboro'. All ordinances and resolutions shall take effect upon adoption unless otherwise provided therein or unless otherwise provided by general law.

"Sec. 3.9. *Adoption of Ordinances or Code by Reference.* The Board of Aldermen is hereby authorized to adopt by reference the provisions of any

portion of any recognized standard code prepared by the various technical trade associations, relating specifically, but not limited to, building codes, plumbing codes, electrical wiring codes, health or sanitation codes, fire prevention codes, inflammable codes and any other codes which embrace rules and regulations pertinent to a subject which is a proper municipal legislative matter, without setting forth the provisions of such codes in full; provided that at least one copy of each such code which is incorporated or adopted is kept in the office of the City Clerk for public use, examination and inspection. Any existing ordinance which has incorporated by reference the provisions of any such code is hereby expressly validated.

"ARTICLE IV. ELECTION PROCEDURE

"Sec. 4.1. *Regular Municipal Elections.* Elections shall be held biennially on the Tuesday after the first Monday in November beginning in 1973. The municipal primary election, if one be required, for the nomination of candidates for the offices of Mayor and Aldermen shall be held on the fourth Tuesday, preceding the regular municipal election.

"Sec. 4.2. *Elections to be by Nonpartisan Primary Method.* Elections for Mayor and Board of Aldermen shall be by the nonpartisan primary and election method set out in North Carolina General Statute 163-294. All elections and referendums of the City of Goldsboro shall be held and conducted as provided by the applicable General Statutes of North Carolina.

"ARTICLE V. CITY MANAGER

"Sec. 5.1. *Appointment; Compensation.* The Board of Aldermen shall appoint an officer whose title shall be City Manager and who shall be the head of the administrative branch of the city government. The City Manager shall be chosen by the Board of Aldermen solely on the basis of his executive and administrative qualifications with special reference to actual experience in, or knowledge of, accepted practice in respect to the duties of his office as hereinafter prescribed. At the time of his appointment, he need not be a resident of the City or State, but shall reside therein during his tenure of office. The City Manager shall serve at the pleasure of the Board of Aldermen and shall receive such salary as the Board of Aldermen shall fix. In case of absence or disability of the City Manager, the Aldermen may designate a qualified administrative officer of the City to perform the duties of the Manager during such absence or disability.

"Sec. 5.2. *Powers and Duties of Manager.* The City Manager shall be responsible to the Board of Aldermen for the proper administration of all the affairs of the City. In exercising his duties as chief administrator, he shall have the following powers and duties:

(a) He shall appoint and suspend or remove all city employees, except the city attorney [H-and the tax collector], in accordance with such general personnel rules, regulations, policies, or ordinances as the Board of Aldermen may adopt.

(b) He shall direct and supervise the administration of all departments, offices, and agencies of the City, subject to the general direction and control of the Board of Aldermen, except as otherwise provided by law.

(c) He shall attend all meetings of the Board of Aldermen and recommend any measures that he deems expedient.

(d) He shall see that all laws of the State, the City Charter and the

ordinances, resolutions and regulations of the Board of Aldermen are faithfully executed within the City.

(e) He shall prepare and submit the annual budget and capital program to the Board of Aldermen.

(f) He shall annually submit to the Board of Aldermen and make available to the public a complete report on the finances and administrative activities of the City as of the end of the fiscal year.

(g) He shall make any other reports that the Board of Aldermen may require concerning the operations of the city departments, offices, and agencies subject to his direction and control.

(h) He shall perform any other duties that may be required and authorized by the Board of Aldermen.

“ARTICLE VI. CITY ATTORNEY

“Sec. 6.1. *Appointment; Qualifications; Terms; Compensation.* The Board of Aldermen shall appoint a City Attorney who shall be an attorney at law licensed to engage in the practice of law in North Carolina and who need not be a resident of the City during his tenure. The City Attorney shall serve at the pleasure of the Board of Aldermen and shall receive such compensation as the Aldermen shall determine. The Aldermen may appoint such assistant city attorneys as they deem necessary.

“Sec. 6.2. *Duties of City Attorney.* It shall be the duty of the City Attorney to prosecute and defend suits for and against the City; to advise the Mayor, Board of Aldermen, City Manager, and other city officials with respect to the affairs of the City; to draw all legal documents relating to the affairs of the City; to draw proposed ordinances when requested to do so; to inspect and pass upon all agreements, contracts, franchises, and other instruments with which the City may be concerned; and to perform such other duties as may be required of him by virtue of his position of City Attorney.

“ARTICLE VII. ADMINISTRATIVE OFFICERS AND EMPLOYEES

“Sec. 7.1. *City Clerk.* The City Manager shall appoint a City Clerk to keep a journal of the proceedings of the Board of Aldermen and maintain in a safe place all records and documents pertaining to the affairs of the City, and to perform such other duties as may be required by law or as the City Manager may direct. He shall receive such compensation and be required to give such bond as the Board may from time to time determine.

“Sec. 7.2. *City Finance Officer.* The City Manager shall appoint a City Finance Officer, whose powers and duties shall be as defined in ‘The Local Government Budget and Fiscal Control Act’ of the general laws of North Carolina.

“Sec. 7.3. *Tax Collector.* The Board of Aldermen shall appoint a Tax Collector whose powers and duties shall be as defined in Chapter 105 of the North Carolina General Statutes.

“ARTICLE VIII. CITY DEPARTMENTS; CREATION; POWERS AND DUTIES

“Sec. 8.1. *Departments Created.* There shall be and are hereby created or continued, until changed by the Board of Aldermen, the following departments of the City of Goldsboro:

- (a) Department of Finance
- (b) Department of Public Works
- (c) Department of Planning

(d) Department of General Services

(e) Fire Department

(f) Police Department

(g) and any such other departments as may from time to time be created by ordinance adopted by the Board of Aldermen upon the recommendation of the City Manager.

“Sec. 8.2. *Powers and Duties.* The following shall constitute the general powers and duties of the department heads of the City of Goldsboro which may from time to time, unless otherwise prohibited by law, be added to, eliminated or exchanged by the City Manager with concurrence by the Board of Aldermen:

(a) The Director of Finance shall be responsible for the collection, disbursement, and accounting system prescribed by law and in keeping with policies established by the Board of Aldermen. The Director of Finance shall, in addition, perform the duties of the Finance Officer as required by the Local Government Budget and Fiscal Control Act of the General Statutes of North Carolina.

(b) The Director of Public Works shall be responsible for all matters relating to the construction, maintenance and operation of the physical properties of the City utilizing the following divisions: sanitation, cemeteries, garage, street, engineering, inspection and general services. He shall also be responsible for all matters relating to the operation of the water and sewer and other utility systems of the City in keeping with policies established by the Board of Aldermen.

(c) The Director of Planning shall be responsible for the preparation, review and revision of the city's comprehensive planning program, as well as the supervision of the department's administration, including the coordinating of all city planning activity and current planning projects in keeping with policies established by the Board of Aldermen.

(d) The Director of General Services shall be responsible for installation and maintenance of all electrical operations within the City including traffic signals, printing, installation and maintenance of street name signs and traffic control signals and devices, alterations and repairs to city buildings, maintenance of city-owned buildings, maintenance of city-owned cemeteries, control and care of animals at the city dog pound and enforcement of animal control regulations, maintenance of city equipment and vehicles, including disbursement of fuels, tires and miscellaneous accessories. It shall further be his responsibility to administer the operation of the Department in keeping with policies established by the Board of Aldermen.

(e) The Chief of the Fire Department acting under the City Manager shall be responsible for the efficiency and discipline of the Fire Department. All orders shall pass through him and he shall see that the rules and regulations applicable to the department are carried out. The Chief of the Fire Department and its other officers shall have full police powers during fires and are authorized to make arrests for interference with their operations. In the absence of the Chief, the Assistant Chief shall have the powers and duties of the Chief. The Fire Department and its officers shall have such additional powers and duties as may be conferred upon them by general law and by ordinance or other direction of the Board of Aldermen consistent with such general law or this Charter.

(f) (1) The Chief of Police, acting under the City Manager, shall have

supervision and control of the police force and shall enforce discipline therein.

(2) The Chief of Police and each member of the police force shall have, for the purpose of enforcing city ordinances and regulations, of preserving the peace of the City, of suppressing disturbances and apprehending offenders, and for serving civil process, the powers of peace officers vested in sheriffs and constables. They shall have such other powers, duties and responsibilities as may be placed upon their office by the general laws of North Carolina, this Charter and as prescribed by the Board of Aldermen. Such powers may be exercised within the corporate limits of the City and one mile beyond, upon city real property wherever located and within the limits of the watershed of the city water supply.

(3) If in the exercise of any powers or in the performance of any duties herein or otherwise by law vested in or assigned to them any police officer shall pursue and continually follow within Wayne County any person who has violated or is believed to have violated any law, then in such circumstances, such officer shall have all of the powers and authority and be governed by the laws of North Carolina applicable to sheriffs and constables in their respective districts.

"ARTICLE IX. SALE AND DISPOSITION OF PROPERTY

"Sec. 9.1. *Sale of City Property.* The Board of Aldermen may sell or exchange all city property, both real and personal, which in its opinion is not required for municipal purposes. All such sales or exchanges shall, except as otherwise authorized in Sections 9.2 and 9.3, be subject to confirmation or rejection by the Board and shall be at public auction after advertisement as hereinafter described, except that where otherwise authorized and provided by general law such sale or exchange may be made under the authority and provisions of such general law, and that as to the following, such sale or exchange may be by private sale or otherwise, as the Board may determine to be for the best interest of the City:

(a) Cemetery lots.

(b) Real or personal property where the value does not exceed the sum of two thousand dollars (\$2,000), or if jointly owned, where the value of the city's interest therein does not exceed such sum.

(c) Where the City is selling to or exchanging with any other governmental unit or the agency thereof within the United States.

(d) Where the property has been acquired for delinquent taxes and the sale is being made to the former owner.

"Sec. 9.2. *Disposal of Surplus Real Property.* The Board of Aldermen shall have power, in addition to the power granted by the general laws, to sell any real property which the Board has declared to be surplus in the following manner:

(a) Upon receipt of a deposit of five percent (5%) of an offer to purchase any such lot or parcel of land, the Board of Aldermen may cause a notice to be published once a week for four successive weeks in some newspaper published in the City, describing the property and stating the amount of the offer received therefor, and inviting other and better bids for the property and giving notice that any and all better bids for the property should be filed with the City Manager, with a deposit in the amount of five percent (5%) of each increased offer, on or before twelve o'clock noon on a date to be specified in the notice, which shall not be less than 21, nor more than 31 days next following the first publication of the notice as above provided for. No bid shall be received after

twelve o'clock noon of the date so specified unless the Board of Aldermen shall cause the property to be readvertised and again offered for sale as hereinafter provided.

(b) At any time after the expiration of the date of the time limited for the receipt of bids as aforesaid, not exceeding 60 days, the Board of Aldermen shall proceed to consider any and all bona fide offers made for the property, accompanied by the deposit of five percent (5%) of the amount thereof as hereinabove provided, and may thereupon confirm the sale of the property to the party, person or persons so making the highest bona fide offer, with deposit as aforesaid; provided, the Board of Aldermen shall find that, in its opinion, the price so offered is fair and adequate and all that the property is reasonably worth.

(c) The Board of Aldermen, in its discretion, instead of confirming any such sale, shall have the right, power and authority to proceed to readvertise and again offer such property for sale in like manner as in the first instance; or it may discontinue further action in the premises and indefinitely postpone or terminate all negotiations and proposals for the sale of the property.

(d) Two or more offers for two or more separate lots or parcels of land may be combined and advertised in the same notice.

(e) The Board of Aldermen, in their resolution declaring the real property to be surplus, shall direct the City Manager or other appropriate officials whether to follow the procedure set forth under the general laws or the alternate procedure set forth in this Article.

"Sec. 9.3. *Disposal of Surplus Personal Property.* The Board of Aldermen shall have power, in addition to the power granted by the general laws, to sell or to direct any of its officers or employees to sell any personal property which the Board of Aldermen has declared to be surplus property in the following manner:

(a) Without bids or advertisement, at private sale, if the property has a market value of two thousand dollars (\$2,000) or less.

(b) To the highest bidder upon receipt of informal written bids, with only such advertisement as the Board of Aldermen may direct, if the property has a market value of more than two thousand dollars (\$2,000) but no more than two thousand five hundred dollars (\$2,500); provided, all such bids received shall be recorded on the minutes of the Board of Aldermen.

(c) To the highest bidder upon receipt of sealed bids after one week's public notice, if the property has a market value in excess of two thousand five hundred dollars (\$2,500); provided, all such sealed bid proposals shall be opened in public and recorded on the minutes of the Board of Aldermen.

"Sec. 9.4. *Notice, Publication and Posting.* Whenever advertisement is required for the sale or other disposition of city property, notice of such sale, describing the property to be sold, the time, place and terms of the sale, the amount of deposit required and other information deemed pertinent, shall be run once a week for four consecutive weeks preceding the sale in a newspaper having general circulation in the City and which is qualified to carry legal notices. A copy of such notice shall also be posted at the Wayne County Courthouse for 30 days preceding the sale.

"Sec. 9.5. *Lease of City Property.* The Board of Aldermen shall have power, in addition to the power granted by the general laws to rent or lease any property owned by the City, whether originally acquired for governmental or other purposes, if, in the opinion of the Board of Aldermen, the property will not be

needed by the City for the period of the lease. The term of the lease shall not exceed 10 years. A lease may be made privately by the Board or publicly after notice is given in such manner and for such length of time as prescribed by the Board. In any case, however, where the lessee enters into a binding obligation to erect upon property owned by the City improvements to cost not less than one hundred thousand dollars (\$100,000), the Board may rent or lease such property for a term not to exceed 40 years, and such lease may be made by the Board either privately or publicly and upon such terms as in the judgment of the Board will promote the best interest of the City.

“Sec. 9.6. *Cemetery Lots; Sale.* The City Manager may sell cemetery lots in the city cemeteries, subject to the rules and regulations adopted by the Board of Aldermen. All deeds or instruments conveying title to such lots shall be signed by the City Manager and attested by the City Clerk.

“Sec. 9.7. *Releases and Quitclaims.* (a) Release, amount and form. The City Manager is hereby authorized to execute releases of persons, firms and corporations because of damages to personal property belonging to the City when the full amount of damages to such property is ascertained and statement thereof has been furnished to the Manager by the City Attorney, and the amount of such release does not exceed five hundred dollars (\$500.00). In the event that a draft or check is presented to the City which constitutes a release, instead of a regular release form, the Manager may direct that such draft or check be handled as other payments to the City, and when approved by the Manager, it shall constitute a release to the extent stated on the draft or check.

(b) Quitclaim, unused public property. The City may quitclaim any rights it may have in property not needed for public purposes upon report by the City Attorney and City Manager and adoption of a resolution by the Board of Aldermen, both finding that the property is not needed for public purposes, and that the city's interest has no readily ascertainable monetary value.

“ARTICLE X. LOCAL IMPROVEMENTS AND ASSESSMENTS

FOR LOCAL IMPROVEMENTS

“Sec. 10.1. *Authority to Make Local Improvements.* The Board of Aldermen shall have authority to make the local improvements described in this Charter, as in its discretion it may deem appropriate, with or without any petition so to do and to assess the total cost against the abutting property. The procedure set forth in this Article shall not be exclusive, but shall be in addition to any other procedure provided by law.

“Sec. 10.2. *Separate Proceedings Not Required.* One or more local improvements may be made in a single proceeding, and assessments for one or more local improvements may be combined.

“Sec. 10.3. *Definitions.* Certain words and phrases will be used with the following meanings with reference to local improvements, unless some other meaning is plainly intended.

(a) A *street* is the entire width between property lines of every way or place, of whatever nature, when any part thereof is dedicated or open to the use of the public as a matter of right for the purpose of vehicular or pedestrian traffic, and whether such portion devoted to traffic be divided by any railroad, or other utility right-of-way, parkway or in any other manner.

(b) A *sidewalk* is the part of a street which is used or to be used for pedestrian traffic.

(c) A *storm sewer* is a conduit above or below ground for the passage of storm

water and may include a pumping station and outlet where deemed necessary and may also include the building of culverts over or the enclosing of streams where needed to carry off storm water.

(d) A *sanitary sewer* is an underground conduit for the passage of sewage and may include a pumping station and outlet.

(e) A *water main* is a pipe for the passage of city water for public hydrants and private and public use and consumption.

(f) A *lateral* is a pipe connecting a storm or sanitary sewer or water main with the line of adjacent property or the curbline, being either a sewer lateral or water lateral, but does not include a building connection, that is, a pipe extending from a lateral at the property line or curbline to the house or plumbing fixture to be served.

(g) A *roadway* is the part of a street which is used or to be used for vehicular traffic.

(h) The word *sewer* includes both sanitary and storm sewers unless a contrary intention is shown.

“Sec. 10.4. *Improvements Described.* The Board of Aldermen shall have authority to make the following local improvements:

(a) Roadway paving improvements, which include the grading, regrading, paving, repaving and widening of roadways, or the improvement thereof with any treatment designed to provide an improved wearing surface with necessary drainage, sewer inlets, manholes and catch basins and the construction or reconstruction of retaining walls made necessary by any change of grade incident to such improvement, and, in any case where the improvement is made, if the Board so directs, it may include the construction or reconstruction of curbs, gutters, drains and sidewalks.

(b) Water main improvements, which include the laying or construction of water mains, the relaying where necessary of parts of paved roadways and sidewalks torn up or damaged by the laying or construction of such mains, and, in any case where the improvement is made and the Board so directs, the laying of water laterals.

(c) Sanitary sewer improvements, which include the laying or construction of sanitary sewers, the relaying where necessary of parts of paved roadways and sidewalks torn up or damaged by the laying or construction of such sewers, and, in any case where the improvement is made and the Board so directs, the laying of sanitary sewer laterals.

(d) Storm sewer improvements, which include the laying or construction of storm sewers, the relaying where necessary of parts of paved roadways and sidewalks torn up or damaged by the laying or construction of such sewers, and, in any case where the improvement is made and the Board so directs, the laying of storm sewer laterals.

(e) Sidewalk improvements, which include the grading, regrading, construction, reconstruction and repair of paved or other improved sidewalks, the construction or reconstruction of retaining walls made necessary by and incident to such improvements, and in any case where the improvement is made, if the Board so directs, it may include the construction or reconstruction of curbs, gutters and drains, and the construction or reconstruction of all such

portions of driveways as in the judgment of the Board ought to be laid in the street area.

(f) Grass plot improvements, which include the grading and planting of grass plots in a street.

"Sec. 10.5. Water and Sewer Mains between Streets; Assessment; City to Bear Costs of Right-of-way. Whenever the Board finds it in the public interest, and it will be more economical and the interest of the property owners will best be served by construction of either water or sanitary sewer mains, or both, between streets rather than in a street, they may be constructed between streets. The cost of the construction of such water or sewer mains and laterals shall be assessed according to the street frontage in the same manner and to the same extent that it would be assessed if the improvements were constructed in a street; provided that the City shall provide the rights-of-way for construction and maintenance of such mains at its own expense without assessing the cost thereof.

"Sec. 10.6. Inclusion of More Than One Improvement in Single Proceeding. (a) Uniformity of cost and kind. Any proceeding may include one or more local improvements on one or more streets, but all improvements included in one procedure shall be practically uniform in cost and kind. A proceeding may include improvements on only one side of a street.

(b) Assessment of costs, manner and method. The proceeding may provide for making any one or more local improvements in or on a street or streets and for the assessment of the cost thereof, except the city's portion, wholly against the property abutting one side of such street or streets or otherwise against such abutting property as may be designated in the petition, if one, and if not in the resolution ordering the proceeding, in any of the following cases: (1) In any case, where there is a park land or unimproved land abutting one side or a part of one side of a street; or (2) where the land abutting one side or a part of one side of a street is of such a nature or is devoted to such purpose that a special assessment against it cannot be made, or, if made would probably exceed the value of the land assessed; or (3) where the owners of all the property to be assessed agree thereto.

"Sec. 10.7. Resolution ordering improvements; publications. (a) After the Board determines to make the improvements proposed, it shall adopt a resolution which shall contain:

- (1) If the improvements are to be made by petition, a finding by the Board as to the sufficiency of the petition, which finding shall be final and conclusive.
- (2) If the improvements are to be made without petition, a finding by the Board of such facts as are required in order to authorize improvements without petition.
- (3) A general description of the improvements to be made, and the designation of the street or streets or parts thereof where the work is to be done.
- (4) If the improvement directed to be made includes the construction of water mains or sewers, and in order to provide the mains or sewers in the street or streets to be improved, it is necessary to extend them beyond the limits of the street or streets, the resolution shall contain a provision for the necessary extension of such mains or sewers, and a further provision that the cost of such extension shall be assessed against the lots

or parcels of land abutting the street or streets in which such extensions are made, but that assessments shall not be made until such time as the Board shall thereafter determine by appropriate resolution.

- (5) If the improvement directed to be made is the paving of a roadway or part thereof, or the construction of sidewalks, the resolution may, but need not, contain a direction that the owner of each lot abutting the part of the street to be improved connect his lot by means of laterals with water mains, gas or sewer pipes, or any one or more thereof, located in the street adjacent to his premises in accordance with the requirements governing the laying of laterals, and that unless the owners cause laterals to be laid on or before a date specified in the resolution, the date to be not less than 30 days after the date of the resolution, the Board will cause the same to be laid.

- (6) A designation of the proportion of the cost of the improvements to be assessed against abutting property, and of the number of equal annual installments in which assessments may be paid.

(b) Publication and posting of notice. The resolution after its passage shall be published at least once in some newspaper of general circulation in the City which is qualified to carry legal notices, or if there be no such newspaper, the resolution shall be posted in three public places in the City for at least five days, except that in any case where the Board directed that the notice should be served or mailed instead of being published, the resolution ordering the improvements need not be either published or posted.

“Sec. 10.8. *Details of Construction; Contracts for Construction.* The Board shall have power to determine the character and type of construction and of material to be used and to determine any other details of plan or construction necessary to be determined in making any local improvements and to determine whether any work to be done by the City shall be done by contract or by the City. The Board shall have power, also, unless otherwise limited, to determine the number of water, sewer and gas laterals that shall be laid to any lot on any street to be improved. If the work or any part thereof is to be done by contract, the Board may let all of the work in one contract, or it may divide it into several contracts and may let contracts separately.

“Sec. 10.9. *Determination as to Cost of Improvements.* Upon completion of the improvements, the Board shall ascertain the total cost. In addition to other items of cost there may be included therein the cost of all necessary legal services, the amount of interest paid during construction, the amount of damages paid or to be paid for injury to property by reason of any change of grade or drainage, including court costs and other expenses incidental to the determination of damages, and the cost of retaining walls, sidewalks or fences built or altered in lieu of cash payment for property damage, including the cost of moving or altering any building. The determination of the Board as to the total cost of any improvement shall be conclusive.

“Sec. 10.10. *Corner Lot Exemptions.* The Board of Aldermen shall have authority to establish schedules of exemptions from assessments for corner lots when a project is undertaken along both sides of such lots. The schedules of exemptions shall be based on categories of land use (residential, commercial, industrial, or agricultural) and shall be uniform for each category. The schedule of exemptions may not provide exemption of more than seventy-five percent

(75%) of the frontage of any side of a corner lot, or 150 feet, whichever is greater.

"Sec. 10.11. *Preliminary Assessment Roll, Contents, Publication, Posting, Serving or Mailing.* The Board shall cause to be prepared a preliminary assessment roll, on which shall be entered a brief description of each lot or parcel of land assessed, the amount assessed against each lot, the name or names of the owner or owners of each lot as far as the same can be ascertained; provided that a map of the improvements on which is shown the frontage and location of each affected lot, together with the amount assessed against each lot and the name or names of the owner or owners thereof as far as the same can be ascertained, shall be a sufficient assessment roll. If the resolution directed the making of more than one improvement, a single preliminary assessment roll for all the improvements authorized by such resolution shall be sufficient, but the cost of each improvement to each lot affected shall be shown separately. After the preliminary assessment roll has been completed, it shall be filed in the office of the City Clerk, and there shall be published in some newspaper of general circulation in the City which is qualified to carry legal notices, or if there be no such newspaper, the City Clerk shall cause to be posted in three public places in the City a notice of the completion of the assessment roll, setting forth a description in general terms of the improvements, and stating the time fixed for the meeting of the Board for the hearing of objections to the special assessments, such meeting to be not earlier than 10 days after the first publication or from the date of posting of said notice. Any number of assessment rolls may be included in one notice. In any case where the preliminary notice was served or mailed instead of being published, this notice need not be published or posted but may be served or mailed. The serving or mailing of notices shall be completed not less than five days prior to the date fixed for the hearing of the assessment roll, and the return of the person serving or mailing the same shall, in the absence of fraud, be conclusive that the same were served or mailed.

"Sec. 10.12. *Hearing; Revision; Confirmation; Lien.* At the time appointed for that purpose or at some other time to which it may adjourn, the Board shall hear objections to the preliminary assessment roll of all persons interested who may appear and offer proof in relation thereto. Then or thereafter, the Board shall either annul or sustain or modify in whole or in part the assessment, either by confirming the preliminary assessment against any or all lots or parcels described thereon, or by cancelling, increasing or reducing the same. If any property is omitted from the preliminary roll, the Board may place it on the roll and levy the proper assessment. The Board may thereupon confirm the assessment roll. Whenever the governing body shall confirm assessments for local improvements, the City Clerk shall enter on the Board minutes and on the assessment roll the date, hour and minute of confirmation, and from the time of confirmation the assessment shall be a lien on the property assessed of the same nature and to the same extent as county and city taxes and shall be superior to all other liens and encumbrances. After the assessment roll is confirmed, a copy of the same shall be delivered to the City Tax Collector.

"Sec. 10.13. *Appeal to Superior Court.* If the owner of, or any person interested in, any lot or parcel of land against which an assessment is made is dissatisfied with the amount of the assessment, he may, within 10 days after the confirmation of the assessment roll, give written notice to the Board that he takes an appeal to the Superior Court of Wayne County, in which case he shall

within 20 days after the confirmation of the assessment roll serve on the Mayor or City Clerk a statement of facts upon which he bases his appeal. The appeal shall be tried as other actions at law. The remedy herein provided for any person dissatisfied with the amount of the assessment against any property of which he is the owner or in which he is interested shall be exclusive.

"Sec. 10.14. *Error in Assessment, Power to Correct, Procedure.* If it shall appear after confirmation of any assessment roll that an error has been made, the City Clerk shall cause to be published one time in some newspaper of general circulation in the City, or if there be no such newspaper, the City Clerk shall cause to be posted at three public places in the City a notice referring to the assessment roll in which the error was made, naming the owner or owners of the lot or parcel of land affected by the error if the same can be ascertained, and naming the time and place fixed for a hearing by the Board for the correction of the error, such meeting not to be earlier than 10 days from the publication or from the date of the posting of the notice. At the time fixed in the notice or at some subsequent time to which the Board may adjourn, the Board, after giving the owner or owners of the property affected and other persons interested therein an opportunity to be heard, may proceed to correct the error, and the assessment then made shall have the same force and effect as if it had originally been properly made. No notice and hearing shall be necessary if the correction does not increase an assessment against any property not owned by the City, or if all of the property owners affected by the correction waive notice in writing.

"Sec. 10.15. *Reassessment.* The Board shall have the power, when in its judgment there is any irregularity, omission, error or lack of jurisdiction in any of the proceedings relating thereto, to set aside the whole of the local assessment made by it and thereupon to make a reassessment. In such case there shall be included, as a part of the cost of the improvements involved, all interest paid or accrued on notes or certificates of indebtedness or bonds issued by the City to pay the expenses of such improvement. The proceeding shall, as far as practicable, be in all respects as in the case of original assessments, and the reassessment shall have the same force as if it had originally been properly made.

"Sec. 10.16. *Publication of Notice of Confirmation of Assessment Roll.* After the expiration of 20 days from the confirmation of the assessment roll, the City Clerk shall cause to be published one time in some newspaper of general circulation in the City which is qualified to carry legal notices, or if there be no such newspaper, shall cause to be posted at three public places in the City a notice of confirmation of the assessment roll, and that assessments may be paid at any time before the expiration of 30 days from the date of publication or posting of the notice without interest from the date of confirmation of the assessment roll, but that if such assessment is not paid in full within said time, all installments thereof shall bear interest at the rate of six percent (6%) per annum from the date of confirmation of the assessment roll.

"Sec. 10.17. *Payment of Assessments in Cash or by Installments.* The property owner assessed shall have the option of paying for improvements in cash or in not less than two or more than five equal annual installments as may have been determined in the resolution ordering the improvements. If paid in installments, installments shall bear interest at the rate of eight percent (8%) per annum from the date of confirmation of the assessment roll. If any assessment is not paid in cash, the first installment with interest shall become

due and payable 30 days after the publication or posting of the notice of confirmation, and one subsequent installment and interest shall be due and payable on the same day of the same month in each successive year until the assessment is paid in full; provided, however, that if the Board shall so direct installments shall become due and payable on the same date when property taxes of the City are due and payable. If any installment with interest is not paid when due, it shall be subject to the same penalties as are now prescribed by law for unpaid taxes, in addition to the interest herein provided for. The whole assessment may be paid at any time by the payment of the full amount due with accrued interest.

“Sec. 10.18. *Procedure to Enforce Payment; Mandamus Against Railroads and State Agencies; Foreclosure Against Individuals.* Upon the failure of any property owner to pay any installment when due and payable, all of the installments remaining unpaid shall immediately become due and payable, and property and rights-of-way may be sold by the City under the same rules, regulations, rights of redemption and savings as are now prescribed by law for the sale of land for unpaid taxes. Collection of assessments with interest and penalties may also be made by the City by proceedings to foreclose the lien of assessments as a lien for mortgages is or may be foreclosed under the laws of the State, and it shall be lawful to join in any bill for foreclosure any one or more lots or parcels of land, by whomsoever owned, if assessed for an improvement ordered by the same resolution, after default in the payment of any installment. The payment of said installment, together with interest and penalties due thereon and any advertising and legal costs already incurred, before the lot or parcel of land against which the same is a lien is sold or said lien is foreclosed, shall bar the right of the City to sell land or to foreclose the lien by reason of default.

“Sec. 10.19. *Assessment of Cost of Water Main and Sewer Extensions.* If the resolution ordering the making of any improvement or improvements included a provision for any necessary extension of a water main or sewer or sewers beyond the limit of a street or streets, at such time after the completion of said extension or extensions, as in the judgment of the Board circumstances justify the assessment of the cost thereof, the Board shall cause a preliminary assessment to be made, and the procedure thereafter to be followed with respect to such assessment and the force and effect thereof shall be as already prescribed for other assessments.

“Sec. 10.20. *Apportionment of Assessments.* In any case where one or more special assessments have been made, and property has been or is about to be subdivided, and it is desirable that the assessments be apportioned among the subdivisions of such property, the Board may, upon application by the owner or owners, apportion the assessments among the subdivisions. Thereafter, each subdivision shall be relieved of any part of the original assessment except the part apportioned to the subdivision, and the part of the original assessment apportioned to any subdivision shall be of the same force and effect as the original assessment.

“Sec. 10.21. *Change of Ownership.* No change of ownership of any property or interests therein after the passage of a resolution ordering the making of a local improvement shall affect subsequent proceedings, and the improvement may be

completed and assessments made therefor as if there had been no change in ownership.

"Sec. 10.22. *Proceedings in Rem.* All proceedings for special assessments shall be proceedings in rem, and no mistake or omission as to the name of any owner or person interested in any lot or parcel of land affected thereby shall be regarded as a substantial mistake or omission.

"Sec. 10.23. *Grass Plot and Driveway Maintenance.* It shall be the responsibility of the abutting property owner to maintain any grass plot or driveway between the property line and the curb of a paved street.

"Sec. 10.24. *Abeyance of Certain Water and Sewer Assessments.* (a) Determination by Board, effect. The Board of Aldermen may provide by resolution that the collection of assessments levied against abutting lots or parcels of land for water main improvements or sanitary sewer improvements, when in its opinion such improvements may not presently be used by the owner or owners of the abutting lots or parcels of land, may be held in abeyance without the payment of any interest thereon until such time as the Board shall determine that any such assessments shall be paid in accordance with the terms set out in the confirming resolution. The collection of some part of the assessments levied for the improvements herein set out on a street or streets or portion thereof may be held in abeyance as herein provided without holding the collection of all of said assessments in abeyance.

(b) Statutes of limitations suspended. All statutes of limitations are hereby suspended during the time that the collection of any assessment is held in abeyance without the payment of interest as provided in subsection (a). Such time shall not be a part of the time limited for the commencement of action for the enforcement of the payment of any such assessment, and such action may be brought at any time within 10 years from the date of the adoption of a resolution by the Board determining that such assessment shall be paid in accordance with the original resolution confirming it.

(c) Retroactive construction prohibited. Nothing herein shall be construed to revive any right of action which has heretofore been barred by the Statute of Limitations.

"Sec. 10.25. *Abutting Property Outside City Limits.* (a) Determination by Board, effect. If any local improvements are made adjacent to any lands outside the city limits, the Board of Aldermen may upon the completion of such local improvements levy assessments against the abutting property in the same manner as if such abutting property were within the city limits and delay the collection of part or all of such assessments without any interest until the city limits are extended to include such abutting property, or the Board may provide that no water or sewer service connections shall be made to such property, pending the annexation thereof, until all assessments thereon are paid. Upon annexation, if not paid prior thereto, the Board may proceed to collect the assessments for such property. Nothing contained in this section shall be construed to prohibit or restrict the Board of Aldermen and a property owner from entering into an agreement for payments in lieu of assessments.

(b) Statutes of limitations suspended. All statutes of limitations are hereby suspended during the time that the collection of any assessment is held in abeyance without the payment of interest as provided in subsection (a). Such time shall not be a part of the time limited for the commencement of action for the enforcement of the payment of any such assessment, and such action may be

brought at the time within 10 years from the date of the adoption of a resolution by the Board determining that such assessment shall be paid in accordance with the original resolution confirming it.

(c) Retroactive construction prohibited. Nothing herein shall be construed to revive any right of action which has heretofore been barred by the Statutes of Limitations.

“ARTICLE XI. ROADS AND STREETS

“Sec. 11.1. *Establishment of Proposed Street Lines.* Whenever, in the opinion of the Board of Aldermen, it is for the best interest of the City that any street should be widened or extended, or both, or that a new street should be opened, the Board may pass an ordinance declaring that such street should be widened or extended, or both, or that such new street should be opened, and shall lay out in the ordinance the lines within which such street should be widened, extended or opened. If any street under the provisions of such ordinance is to be widened, it need not be widened on both sides; and if it is to be widened on both sides, the distance to be widened on both sides need not be the same. Any ordinance introduced for the purpose of widening, extending, or opening any street under the provisions of this Charter may not be adopted until the proposed ordinance is published in a newspaper of general circulation in the City and qualified to carry legal notices at least two times on separate days at least 10 days before the passage of the ordinance, or if there be no such newspaper, posted in three public places in the City. There shall be posted or published with the ordinance a notice stating when property owners may be heard by the Board. A public hearing on the question of the adoption of such ordinance shall be held prior to the passage of the ordinance.

“Sec. 11.2. *Notice to City Required Before Improvement.* After the passage of such ordinance, it shall be unlawful for any land within the proposed street lines established by such ordinance to be built upon or improved or for any part of any existing building within said lines to be repaired or otherwise improved until the City shall have first been given an opportunity to purchase or otherwise acquire said property for street purposes as provided in this Charter. To that end, any person proposing to build upon such land or to make repairs or improvements to that part of any existing building situated thereon shall, in writing, notify the Board of Aldermen of the nature and estimated cost of such building, repairs or improvements. The Board shall then determine whether it will take the necessary steps to acquire said land prior to the construction of said building or the making of such repairs or improvements, and if it fails within 60 days from date of receipt of said notice to acquire, or to institute condemnation proceedings to acquire, said property, the owner or other person giving such notice may proceed to erect the building in accordance with the ordinances and regulations of the City or to make the repairs or improvements described in said notice.

“Sec. 11.3. *Failure to Give Notice Bars Recovery.* If any person, firm or corporation builds upon any land included within proposed street lines or repairs or otherwise improves that part of any existing building within proposed street lines without giving the City an opportunity to acquire said land free from said improvements, as provided in the preceding section, the City shall not be required to pay for the value of the building, repairs or improvements in any

proceeding subsequently brought to acquire said land for the purpose set out in said section.

"Sec. 11.4. *Acquisition of Land.* If, upon receiving any notice in compliance with Section 2, the Board of Aldermen determines to acquire said land immediately, it may acquire the same by grant, purchase or condemnation. If the Board determines to proceed by condemnation, the condemnation shall be as set forth in the Charter.

"Sec. 11.5. *Cost of Land Acquired for Street Widening to be Assessed as Part of Improvement.* After any land has been purchased or condemned for the purpose of widening, extending or opening any street, and the land purchased or condemned lies within the limits of an improvement directed in said proceedings, then the amount paid by the City for the land purchased or condemned, together with the cost of the condemnation proceeding and interest on said amount paid and costs at the rate of six percent (6%) per annum from the date of payment, shall be included in the cost of said improvement and shall be assessed as provided by law against the property to be assessed for the improvements.

"Sec. 11.6. *Exercise of Condemnation Power After Failure to Condemn Following Notice.* The failure of the City to acquire any land within 60 days after receiving notice that the same is to be built upon or that a building thereon is to be repaired or otherwise improved, or its failure within said time to institute proceedings to condemn the same, shall not limit the right of the City at any subsequent time to condemn the same; but in such case, the owner shall be entitled to compensation as now provided by law for the building, repairs or improvements made after the giving of the required notice and the failure of the City to acquire said land free of said improvements.

"ARTICLE XII. EMINENT DOMAIN

"Sec. 12.1. *Condemnation; Authority and Procedure.* In addition to any other procedure permitted by law, the City of Goldsboro may exercise the power of eminent domain, both within and without the city limits, for any purpose for which it may condemn property, according to procedures of G.S. Chapter 136, Article 9.

"ARTICLE XIII. REGULATORY POWERS

"Sec. 13.1. *Subdivisions; Require Installation of Improvements.* (a) In connection with subdivision or platting controls, the Board of Aldermen may require the improvement and grading of streets and the construction and installation of street pavements, curbs, gutters, sidewalks, and water, sewer, surface water drainage and other utility mains as a condition precedent to approval of the plat. The requirements may provide for tentative approval of the plat previous to such improvement and installation, but any such tentative approval shall not be entered on the plat. The requirements may provide that in lieu of completion of the work and installations prior to final approval of the plat, the Board may accept a bond, in an amount and with surety and condition satisfactory to it, providing for and securing to the City the actual construction and installation of the improvements and utilities within a period specified by the Board and expressed in the bond. The City is empowered to enforce the bond by all appropriate legal and equitable remedies. Requirements adopted hereunder may be applied throughout the area over which the City is authorized by law to exercise platting or subdivision controls.

(b) The requirements may provide, in lieu of the completion prior to the final

approval of a plat of such work and installation on land within the area over which the City is authorized by law to exercise platting or subdivision control, for an assessment under this Charter or under Article 10, Chapter 160A of the General Statutes or other statutory authorization whereby the City may do the work and make the installations at the cost of the owners of the property within the subdivision.

“Sec. 13.2. *Applicable to Public Service Corporations.* All of the provisions of this Article and of any other laws granting planning, zoning and building regulatory powers to the City of Goldsboro, together with any ordinances passed by the Board of Aldermen of the City in the exercise of such powers, shall be applicable to and enforceable against all public utilities and other public service corporations.

“ARTICLE XIV. MISCELLANEOUS

“Sec. 14.1. *Animal Shelters.* The Board of Aldermen may participate in the ownership, construction, operation and management of one or more animal shelters, or dog pounds for the City or for the joint use of the City and Wayne County, under such terms as the two governing bodies may agree upon.

“ARTICLE XV. CLAIMS AGAINST THE CITY

“Sec. 15.1. *Presentation of Claims to Board of Aldermen.* No action shall be instituted or maintained against the City of Goldsboro upon any claim or demand whatever of any kind or character until the claimant shall have first presented in writing his or her claim or demand to the Board of Aldermen, and the Board shall have declined to pay or settle the same as presented, or for 60 days after presentation shall have neglected to enter or cause to be entered upon its minutes its determination in regard thereto. Nothing contained in this Article shall be construed to prevent any statute of limitations from commencing to run at the time when a claim accrued or demand arose, or in any manner to interfere with its running.

“Sec. 15.2. *Time for Presentation of Damage Claims.* (a) Notice, form and contents. Except as otherwise provided in this section, no action for damages of any character whatever, to either person or property, shall be instituted against the City, unless within six months after the happening or infliction of the injury complained of, the complainant, his executor, administrator, guardian or next friend shall have given notice in writing to the Board of Aldermen of the injury, stating in the notice the date and place of the injury, the manner of infliction, the character of the injury and the amount of damage claimed.

(b) Claims for taking or use of real property. No action shall be instituted against the City on account of damages to or compensation for real property used or taken by the City for any public purpose of any kind unless within two years after such alleged use, the owner, his executor, administrator, guardian or next friend shall have given notice in writing to the Board of Aldermen of the claim, the notice to set forth the date that the alleged use commenced, a description of the property alleged to have been used and the amount of damage or compensation claimed.

(c) Inability to give notice, physical or mental incapacity; minority. Notwithstanding the provisions of subsections (a) and (b), if a complainant suffers from physical or mental incapacity that renders it impossible for him to give notice, his action shall not be barred if notice of claim is given by him or on his behalf within six months after the termination of the physical or mental incapacity; provided that minority shall not of itself constitute physical or

mental incapacity. If the complainant is a minor, his action shall not be barred if notice of claim is given on his behalf within three years after the happening or the infliction of the injury complained of; or if the minor suffers from physical or mental incapacity that renders it impossible for him to give notice, his action shall not be barred if notice of claim is given on his behalf within six months after termination of the physical or mental incapacity, or within three years after the happening or infliction of the injury complained of, whichever is the longer period. The City at any time may request the appointment of a next friend to represent any person having a potential claim against the City and known to be suffering from physical or mental incapacity.

"Sec. 15.3. *Settlement of Claims by City Manager.* The City Manager may settle claims against the City for (1) personal injury or for damages to property when the amount involved does not exceed the sum of five hundred dollars (\$500.00) and does not exceed the actual loss sustained, including loss of time, medical expenses and any other expense actually incurred, and (2) the acquisition of small portions of private property which are needed by the City for the construction and operation of street, water, sewer, and other public purposes when the amount involved in any such settlement does not exceed the sum of five hundred dollars (\$500.00) and does not exceed the actual loss sustained. Settlement of a claim by the City Manager pursuant to this section shall constitute a complete release of the City from any and all damages sustained by the person involved in such settlement in any manner arising out of the accident, occasion or taking complained of. All such releases shall be subject to the approval of the City Attorney.

"ARTICLE XVI. CHARTER AMENDMENTS

"Sec. 16.1. *Incorporation of Amendments.* (a) As soon as possible after the adjournment of each General Assembly, the City Attorney shall present to the Board of Aldermen copies of all local laws relating to the property, affairs and government of the City of Goldsboro that were enacted by such General Assembly, whether or not amending in terms of this Charter. Such recommendations may include suggestions for renumbering or rearranging the provisions of such laws, for providing titles and catchlines, and for such other changes in arrangement and form that do not change the law, as may be thought necessary to implement the purposes of this section.

(b) After considering the recommendations of the City Attorney, the Aldermen may provide for the incorporation of such laws into this Charter.

(c) The purpose of this section is to enable the City to maintain at all times a current and accurate city charter, organized in clear and orderly fashion and embracing all pertinent local laws relating to the property, affairs and government of the City."

Sec. 2. The purpose of this act is to revise the Charter of the City of Goldsboro and to consolidate herein certain acts concerning the property, affairs, and government of the City. It is intended to continue without interruption those provisions of prior acts, which are consolidated into this act, so that all rights and liabilities that have accrued are preserved and may be enforced.

Sec. 3. This act shall not be deemed to repeal, modify, nor in any manner to affect any of the following acts, portions of acts, or amendment thereto,

whether or not such acts, portions of acts, or amendments are expressly set forth herein:

(a) any acts concerning the property, affairs, or government of public schools in the City of Goldsboro;

(b) any acts validating, confirming, approving, or legalizing official meetings, actions, contracts, or obligations of any kind.

Sec. 4. The following acts or portions of acts, having served the purposes for which enacted, or having been consolidated into this act, are hereby repealed:

Chapter 505, Session Laws, 1965

Chapter 629, Session Laws, 1967

Chapter 975, Session Laws, 1969

Chapter 335, Session Laws, 1967

Chapter 328, Session Laws, 1963

Chapter 636, Session Laws, 1959

Chapter 222, Session Laws, 1949

Chapter 758, Session Laws, 1949

Chapter 816, Session Laws, 1959

Chapter 293, Session Laws, 1957

Chapter 586, Session Laws, 1957

Chapter 778, Session Laws, 1947

Chapter 163, Session Laws, 1951

Chapter 447, Session Laws, 1961

Chapter 117, Private Laws, 1905

Chapter 427, Private Laws, 1911

Chapter 481, Public Laws, 1901

Chapter 221, Private Laws, 1913

Chapter 5, Private Laws, 1915

Chapter 19, Private Laws, 1921

(Extra Session)

Chapter 211, Private Laws, 1915

Chapter 388, Private Laws, 1901

Chapter 223, Private Laws, 1915

Chapter 78, Private Laws, 1927

Chapter 107, Private Laws, 1915

Chapter 75, Private Laws, 1927

Chapter 307, Private Laws, 1901

Chapter 397, Private Laws, 1901

Chapter 339, Private Laws, 1903

Chapter 343, Private Laws, 1905

Chapter 229, Private Laws, 1909

Chapter 108, Private Laws, 1915

Chapter 207, Private Laws, 1915

Chapter 164, Private Laws, 1917

Chapter 321, Private Laws, 1915

Chapter 291, Session Laws, 1943

Chapter 132, Private Laws, 1921

Chapter 306, Private Laws, 1913

Chapter 111, Private Laws, 1915

Chapter 89, Private Laws, 1913

Chapter 70, Private Laws, 1921
(Extra Session)

Chapter 4, Private Laws, 1939

Chapter 101, Private Laws, 1915

Chapter 187, Private Laws, 1923

Chapter 138, Private Laws, 1925

Chapter 43, Private Laws, 1933

Chapter 103, Private Laws, 1913
(Extra Session)

Chapter 106, Private Laws, 1923

Chapter 126, Private Laws, 1933

Chapter 90, Private Laws, 1913

Chapter 215, Private Laws, 1925

Chapter 85, Private Laws, 1929

Chapter 132, Private Laws, 1923

Chapter 51, Private Laws, 1921
(Extra Session)

Chapter 207, Private Laws, 1933

Sec. 5. No provision of this act is intended, nor shall be construed, to affect in any way, any rights or interest (whether public or private):

(a) now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act;

(b) derived from, or which might be sustained or preserved in reliance upon, action heretofore taken (including the adoption of ordinances or resolutions) pursuant to or within the scope of any provision of law repealed by this act.

Sec. 6. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(a) the repeal herein of any act repealing such law, or

(b) any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

Sec. 7. (a) All existing ordinances and resolutions of the City of Goldsboro and all existing rules or regulations of departments or agencies of the City of Goldsboro, not inconsistent with the provisions of this act, shall continue in full force and effect until repealed, modified or amended.

(b) No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act by or against the City of Goldsboro or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

Sec. 8. *Severability.* If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 9. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 10. This act shall be effective upon its ratification.

In the General Assembly read three times and ratified, this the 8th day of March, 1973.

S. B. 242

CHAPTER 70

AN ACT TO EXTEND THE CORPORATE LIMITS OF THE CITY OF LUMBERTON.

The General Assembly of North Carolina enacts:

Section 1. The corporate limits of the City of Lumberton, Robeson County, North Carolina, are hereby extended by the annexation of the following described tract of land:

"Lying and being between N.C. Highway 41, Old Stage Road (N.C. Rural Road No. 2145) and Rural Road 2501. Beginning at a point in the southeastern right of way line of N.C. Highway 41 and the centerline of Rural Road 2501 extended; thence running in a northwesterly direction along the centerline of N.C. Rural Road No. 2501, 1160 feet, more or less, to a point in the intersection of the centerline of N.C. Rural Road 2501; thence with the center line of Old Stage Road, in a northwesterly direction 400 feet, more or less, to a point; thence North 44 degrees 15 minutes East 262 feet, more or less, to a point; thence North 62 degrees 45 minutes East 452 feet, more or less, to a point, said point being in the corporate limits line of the City of Lumberton; thence continuing with the various courses and distances of the existing corporate limits of the City of Lumberton, North Carolina, in a northeasterly direction to a point, a corner and intersection of the corporate limits of the City of Lumberton; thence in a southwesterly direction along the southeastern right of way line of N.C. Highway 41, the corporate limits line of the City of Lumberton, various courses and distances following the northwest property line of Sunset Heights Subdivision and the northwest property line of that property annexed into the City of Lumberton on June 17, 1965, to an iron stake in the intersection of the southeastern right of way line of N.C. Highway 41 and the eastern right of way line of N.C. Rural Road No. 2205; thence with the southeastern property line of N.C. Highway 41 in a southeasterly direction 3,600 feet, more or less, to the point of beginning.

Lying and being adjacent to the existing southern corporate limits of the City of Lumberton and being bounded on the east by the eastern boundary of N.C. Rural Road No. 2205, the western boundary line of Sunset Heights Subdivision, the western right of way line of Freedom Road and the western boundary of the Lumberton Housing Authority Property; on the south by a new line extending from the southwest corner of the Lumberton Housing Authority Property to a point in the southeastern right of way line of N.C. Highway 41; and on the northwest by the southeastern right of way line of N.C. Highway 41, and being more particularly described as follows:

Beginning at an iron stake in the intersection of the southeastern right of way line of N.C. 41 and the eastern right of way line of Rural Road 2205, said stake being a corner of the corporate city limits of the City of Lumberton, and being the northwestern corner of a tract annexed by the City of Lumberton on June 17, 1965; thence with said corporate limits line South 22 degrees 15 minutes East 273.3 feet along the eastern right of way line of N.C. Rural Road No. 2205 to a stake; thence continuing with said corporate limits line North 57 degrees 53 minutes East 160.3 feet to a stake in the western property line of Sunset Heights Subdivision; thence with the line of said Sunset Heights Subdivision and continuing with said corporate limits line South 22 degrees 54 minutes East 480 feet, more or less, to a point, said point being the southwestern corner of

Sunset Heights Subdivision; thence South 86 degrees 04 minutes East 548 feet, more or less, to a point in the western right of way line of Freedom Road; thence continuing with the right of way line of Freedom Road, the corporate limits line, South 3 degrees 44 minutes West 435 feet, more or less, to a point in the northern property line of the Lumberton Housing Authority Property; thence along said line and continuing with the said corporate limits South 70 degrees 49 minutes West 27 feet, more or less, to an iron stake; thence South 60 degrees 04 minutes West 410.29 feet, more or less, to an iron stake; thence South 7 degrees 02 minutes East 375.24 feet to an iron stake; thence leaving the Lumberton Housing Authority Property and the present corporate limits line of the City of Lumberton and running thence in a westerly direction 600 feet, more or less, to a point in a dirt road, N.C. Rural Road No. 2206; thence in a southwesterly direction 2,530 feet, more or less, to a point in a ditch; said point in the ditch being where N.C. Rural Road No. 2501, if extended in a southeasterly direction, would intersect said ditch; thence in a northwesterly direction 210 feet, more or less, to a point in the southeastern right of way line of N.C. 41, at the intersection of N.C. Rural Road 2501; thence along the southeastern right of way line of N.C. Highway 41, in a northeasterly direction, 3,450 feet, more or less, to the point of beginning."

Sec. 2. From and after ratification of this act the territory described in Section 1 and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Lumberton, and shall be entitled to the same privileges and benefits as other parts of the municipality. The newly annexed territory shall be subject to municipal taxes levied for the fiscal year following annexation. If the effective date of annexation falls between January 1 and June 30, the municipality shall, for the purpose of levying tax for the fiscal year beginning July 1 following annexation, obtain from the County a record of property in the annexed area which was listed for taxes as of January 1. If the annexation effective date falls between June 1 and June 30, and the effective date of the Lumberton privilege license tax ordinance is June 1, then businesses in the annexed area shall be liable for taxes imposed in such ordinance.

Sec. 3. This act is effective on ratification.

In the General Assembly read three times and ratified, this the 9th day of March, 1973.

H. B. 208

CHAPTER 71

AN ACT TO AMEND G.S. 20-28(b) TO MAKE THE SAME APPLICABLE TO PERMANENT LICENSE SUSPENSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-28(b) is hereby rewritten to read as follows:

"(b) Any person whose license has been permanently revoked or permanently suspended, as provided in this Article, who shall drive any motor vehicle upon the highways of this State while such license is permanently revoked or permanently suspended shall be guilty of a misdemeanor and shall be imprisoned for not less than one year. This subsection shall not apply to any license

revocations under G.S. 20-17.1; penalty for violation of G.S. 20-17.1 shall be applied as prescribed under G.S. 20-28, Section A."

Sec. 2. This act shall become effective on July 1, 1973.

In the General Assembly read three times and ratified, this the 9th day of March, 1973.

H. B. 211

CHAPTER 72

AN ACT TO AMEND G.S. 20-57(b) TO ELIMINATE CERTAIN SURPLUS WORDING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-57(b) is hereby amended by placing a period after the word "Commissioner" in line four of the first sentence thereof, and by deleting the remainder of the sentence.

Sec. 2. This act shall become effective on July 1, 1973.

In the General Assembly read three times and ratified, this the 9th day of March, 1973.

H. B. 251

CHAPTER 73

AN ACT TO AMEND G.S. 20-7(a) RELATIVE TO DRIVER'S LICENSE REQUIREMENTS FOR NEW RESIDENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-7(a) is hereby amended by adding the following sentence at the conclusion thereof:

"Any person who takes up residence in this State on a permanent basis shall be exempt from the provisions of this subsection for a period of 30 days from the date that residence is established, provided he is properly licensed in the jurisdiction of which he is a former resident."

Sec. 2. This act shall become effective on July 1, 1973.

In the General Assembly read three times and ratified, this the 9th day of March, 1973.

H. B. 304

CHAPTER 74

AN ACT TO AMEND G.S. 162-5 TO PROVIDE THAT IN THOSE COUNTIES WHERE THERE IS NO CORONER, THE DUTIES OF THE SHERIFF SHALL BE PERFORMED BY A DEPUTY SHERIFF WHEN A VACANCY OCCURS IN THE SHERIFF'S OFFICE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 162-5 is hereby amended by adding a new paragraph thereto to read:

"In those counties where the office of coroner has been abolished, the chief deputy sheriff, or if there is no chief deputy, then the senior deputy in years of service, shall perform all the duties of the sheriff until the county commissioners appoint some person to fill the unexpired term. In all counties

the regular deputy sheriffs shall, during the interim of the vacancy, continue to perform their duties with full authority.”

Sec. 2. This act is effective on ratification.

In the General Assembly read three times and ratified, this the 9th day of March, 1973.

S. B. 186

CHAPTER 75

AN ACT TO AMEND G.S. 1A-1, RULE 20(a) SO AS TO CORRECT A TYPOGRAPHICAL ERROR THEREIN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1A-1, Rule 20(a) is amended by striking from the eighth line thereof the word “of” appearing between the words “and” and “any” and substituting in lieu thereof the word “if”.

Sec. 2. This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of March, 1973.

H. B. 273

CHAPTER 76

AN ACT TO DELETE ROCKINGHAM COUNTY FROM THE PROVISIONS OF G.S. 47-30(k) RELATING TO MAPPING REQUIREMENTS OF PLATS AND SUBDIVISIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 47-30(k) is hereby amended by deleting the word “Rockingham” after the word “Robeson” and before the word “Sampson”.

Sec. 2. This act shall become effective on October 1, 1973.

In the General Assembly read three times and ratified, this the 12th day of March, 1973.

H. B. 288

CHAPTER 77

AN ACT RELATING TO THE GAMES OF “BINGO” AND “SKILO” IN WILKES COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It shall be lawful to play or operate the games of “bingo” and “skilo” in Wilkes County in connection with fairs, conventions, bazaars, or exhibitions sponsored by civic, charitable, social, patriotic, fraternal or trade associations of the county.

Sec. 2. It shall be lawful for any patriotic or fraternal club or association in Wilkes County to play or operate the games of “bingo” and “skilo” in the organization’s club house or meeting rooms.

Sec. 3. All laws and clauses of laws in conflict of this act are hereby repealed.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of March, 1973.

H. B. 360

CHAPTER 78

AN ACT TO REQUIRE PERSONS HUNTING DEER WITH RIFLES IN NORTHAMPTON COUNTY TO SECURE THE WRITTEN CONSENT OF THE LANDOWNERS.

Whereas, the sport of deer hunting has become a very popular practice in Northampton County and provides many pleasurable hours of sportsmanship as well as many delicious food dishes for those who participate along with their families and friends; and

Whereas, the art of true marksmanship is hereby recognized as a source of great pride to those fortunate enough to possess the skill; and

Whereas, many huntsmen from within and without the County of Northampton are practicing this art with precision by the use of high-powered rifles and rifles of smaller calibre; and

Whereas, the terrain of Northampton County is such that ammunition discharged by such rifles may travel great distances and is capable of inflicting injury or death upon humans or animals by unintentional means; and

Whereas, such possibility of injury or death has become apparent to great numbers of individuals, including huntsmen, farmers, cattle owners, and other private citizens to the extent that apprehension of tragedy has become of great concern; and

Whereas, passage of certain acts relative to and restricting certain hunting privileges in other and adjoining counties is calculated to increase the number of deer hunters migrating to Northampton County for the purpose of participating in the sport; and

Whereas, certain persons among such transient huntsmen are known to use rifles and are further known to use such rifles in a manner so as to increase the apprehension of the aforesaid residents of Northampton County; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. It shall be unlawful for any person to discharge (shoot) any rifle of a calibre larger than .22 for any purpose whatsoever, including but not limited to hunting or target practice, within Northampton County, without first securing the express written permission of the owner or lessee of the land on which such discharge is to occur.

Sec. 2. It shall be unlawful for any person to discharge (shoot) any rifle of a calibre larger than .22 for any purpose whatsoever, including but not limited to hunting or target practice, from any public road, public highway or right-of-way within Northampton County, without first securing the express written permission of the owner or lessee of the land which adjoins said public road, public highway or right-of-way and over which said discharge is to take place.

Sec. 3. The written permission to discharge (shoot) a rifle herein required by Section 1 and Section 2 shall be effective for only 12 months from the granting thereof. Any person securing such written permission shall carry on his person such written permission while in possession of a rifle of a calibre larger than .22 and while on lands covered by this act. Such written permission is not transferable.

Sec. 4. This act shall not be construed to limit the use of a .22 calibre rifle.

Sec. 5. Violation of this act shall be a misdemeanor punishable by a fine

of not more than fifty dollars (\$50.00). All law enforcement officers including wildlife protectors are hereby authorized and directed to make arrests for violation of this act.

Sec. 6. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 12th day of March, 1973.

H. B. 397

CHAPTER 79

AN ACT TO ABOLISH THE RESEARCH TRIANGLE REGIONAL
PLANNING COMMISSION AND TRANSFER ITS ASSETS TO THE
TRIANGLE J COUNCIL OF GOVERNMENTS.

Whereas, in response to the designation of State Planning Region J, the six counties of that region and the cities and towns in those counties have created the Triangle J Council of Governments; and

Whereas, the creation of the Triangle J Council of Governments make unnecessary the continued existence of the Research Triangle Regional Planning Commission; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Chapter 642 of the 1959 Session Laws and Chapter 264 of the 1961 Session Laws are repealed.

Sec. 2. All property, real or personal, and all assets and liabilities of the Research Triangle Regional Planning Commission, which was established by the acts repealed by Section 1 of this act, are transferred to the Triangle J Council of Governments and on and after the effective date hereof title thereto is vested in the Triangle J Council of Governments.

Sec. 3. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 12th day of March, 1973.

S. B. 112

CHAPTER 80

AN ACT RELATING TO SEIZURE AND SALE OF ILLEGAL
DISTILLERIES AND MATERIALS USED THEREFOR.

The General Assembly of North Carolina enacts:

Section 1. G.S. 18A-22 is rewritten to read as follows:

"§18A-22. *Law enforcement officers to search for and seize distilleries: confiscation; disposal of property.*—(a) It is the duty of all sheriffs, deputy sheriffs, municipal police, rural police, State and local ABC officers, and other law enforcement officers to search for and seize all equipment and materials used for the illegal manufacture of intoxicating liquor; and, except as provided in subsection (b), to retain the equipment and materials at the office of the law enforcement agency making the seizure until disposed of by court order.

(b) It is the duty of the sheriff and other officers mentioned in this section to seize and then and there destroy any liquor, non-saleable equipment or perishable materials which may be found at any distillery for the illegal manufacture of intoxicating liquor, such not being required for evidence, and to

arrest and hold for trial all persons found on the premises engaged in distilling or aiding or abetting in the manufacture of intoxicating liquor."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of March, 1973.

S. B. 340

CHAPTER 81

AN ACT TO AMEND G.S. 106-568 BY ADDING THERETO A SECTION 106-568.34 TO AUTHORIZE, AS NEEDED, A SHIFT FROM A PER-ACRE UNIT FOR TOBACCO ASSESSMENT TO A CORRESPONDING POUNDAGE UNIT.

The General Assembly of North Carolina enacts:

Section 1. Article 50-C "Promotion of Sale and Use of Tobacco" of Chapter 106 of the General Statutes of North Carolina is amended by adding at the end of said Article a new section to read as follows:

"§ 106-568.34. *Alternate method for levy of assessment.*—At any time when it may be found by the Board of Directors of Tobacco Associates that it is not reasonably feasible to base the authorization of an assessment or the making of an assessment or the collection of an assessment on a 'per-acre' unit, then the Board of Directors of Tobacco Associates, by an affirmative vote of not less than two-thirds of its members (which vote shall include the affirmative vote of not less than two-thirds of such Board members who were elected by North Carolina farm organizations), may use a reasonably corresponding 'tobacco poundage' unit as the basis for such authorization or making or collecting an assessment; provided, that no assessment shall exceed five cents (5¢) per 100 pounds of the effective farm marketing quota of a member."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of March, 1973.

S. B. 58

CHAPTER 82

AN ACT TO AMEND GENERAL STATUTES 7A-45(a) TO AUTHORIZE SPECIAL JUDGES TO HOLD OVER UNTIL THEIR SUCCESSORS ARE APPOINTED AND QUALIFIED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-45(a) is amended by adding the following sentence at the end thereof: "All incumbents shall continue in office until their successors are appointed and qualified."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of March, 1973.

S. B. 73

CHAPTER 83

AN ACT TO AMEND G.S. 9-2 TO REDUCE THE NUMBER OF NAMES REQUIRED FOR THE MASTER JURY LIST.

The General Assembly of North Carolina enacts:

Section 1. G.S. 9-2 is amended in lines nine and ten by deleting "two times and not more than three", and inserting in lieu thereof "one and one-quarter times and not more than three".

Sec. 2. G.S. 9-2 is further amended by changing the . at the end of the first paragraph to a , and adding "but in no event shall the list include less than five hundred names."

Sec. 3. This act shall become effective on ratification.

In the General Assembly read three times and ratified, this the 15th day of March, 1973

S. B. 327

CHAPTER 84

AN ACT TO PROVIDE FOR A COUNTY ELECTRICAL INSPECTOR IN AVERY COUNTY AND TO PROHIBIT MUNICIPALITIES FROM EMPLOYING ELECTRICAL INSPECTORS.

The General Assembly of North Carolina enacts:

Section 1. The Board of County Commissioners shall employ a County Electrical Inspector whose duties shall be to enforce all State and local laws governing electrical installations and materials and to make inspections throughout the County including municipalities in Avery County.

The County Commissioners shall not impose the duties of County Electrical Inspector upon any other County or municipal official or employee, or the persons designated in G.S. 153-9(47a).

All municipalities in Avery County are prohibited from employing electrical inspectors, and in all municipalities the duties of electrical inspector shall be performed by the County Electrical Inspector.

Except as herein modified, G.S. 153-9(47a) shall be applicable to Avery County.

Sec. 2. This act is effective on ratification.

In the General Assembly read three times and ratified, this the 15th day of March, 1973.

H. B. 134

CHAPTER 85

AN ACT TO AUTHORIZE SHORT-TERM INVESTMENTS BY LOCAL ABC BOARDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 18A-17 is amended by adding a new subdivision to read as follows:

"To invest any funds temporarily held in the following: Obligations of the United States or obligations fully guaranteed both as to principal and interest by the United States, shares of any building and loan association organized under the laws of this State, or of any federal savings and loan association having its principal office in this State, and certificates of deposit for time deposits or savings accounts in any bank or trust company authorized to do business in

North Carolina, to the extent in each instance that such shares or deposits are insured by the State or federal government or agency thereof. If the board desires to deposit in bank, savings and loan, or trust company funds beyond the extent that such deposits are insured by the State or federal government or any agency thereof, the board shall require such depository to furnish a corporate surety bond or bonds of the United States Government or of the State of North Carolina or of counties and municipalities of North Carolina whose bonds have been approved by the Local Government Commission. Nothing contained herein shall be deemed to authorize investments by local boards for periods of more than 90 days."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of March, 1973.

H. B. 336

CHAPTER 86

AN ACT TO SPECIFY THE MANNER IN WHICH LOCAL GOVERNMENT AND PUBLIC AUTHORITY BUDGET ORDINANCES ARE TO BE PREPARED AND ADOPTED FOR THE FISCAL YEAR BEGINNING JULY 1, 1973.

The General Assembly of North Carolina enacts:

Section 1. Chapter 780 of the 1971 Session Laws is amended by rewriting Section 44 thereof as follows:

"Sec. 44. Except as provided in this section, this act becomes effective July 1, 1973. Units of local government and public authorities (as they are defined by G.S. 159-7(b), enacted by Section 1 of this act) shall prepare their budgets for the fiscal year beginning July 1, 1973, in accordance with the provisions and procedures of the Local Government Budget and Fiscal Control Act (Subchapter III of G.S. Chapter 159), as enacted by Section 1 of this act. However, units and public authorities shall adopt their budget ordinances for the fiscal year beginning July 1, 1973, no earlier than July 1, 1973, and no later than July 15, 1973."

Sec. 2. This act takes effect upon ratification.

In the General Assembly read three times and ratified, this the 15th day of March, 1973.

S. B. 41

CHAPTER 87

AN ACT TO REWRITE G.S. 42-29 CONCERNING SERVICE OF PROCESS IN SUMMARY EJECTMENT CASES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 42-29 is rewritten to read as follows: "The officer receiving the summons shall immediately deliver a copy of it, together with a copy of the complaint, to the defendant, or leave copies thereof at the defendant's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein. If such service cannot be made, and if the defendant cannot be found in the county after due and diligent search, the

officer shall affix copies to some conspicuous part of the premises claimed and make due return showing compliance with this section."

Sec. 2. All laws and parts of laws in conflict with this act are repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of March, 1973.

S. B. 261

CHAPTER 88

AN ACT TO AMEND THE MOTOR VEHICLE DEALERS AND
MANUFACTURERS LICENSING LAW WITH REGARD TO
REGULATION OF BUSINESS PRACTICES BETWEEN DEALERS
AND MANUFACTURERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-305(3) is hereby repealed.

Sec. 2. Chapter 20 of the General Statutes is hereby amended by rewriting G.S. 20-305(3) and by adding new subdivisions G.S. 20-305(4) through G.S. 20-305(6) as follows:

"(3) Notwithstanding the terms of any franchise agreement, to prevent or refuse to approve the sale or transfer of the ownership of a dealership by the sale of the business, stock transfer, or otherwise, or the transfer, sale or assignment of a dealer franchise, or a change in the executive management or principal operator of the dealership, if the Commissioner has determined, if requested in writing by the dealer within 30 days after receipt of an objection to the proposed sale, transfer or change, and after a hearing on the matter, that the failure to permit or honor such sale, transfer, assignment, or change is unreasonable under the circumstances; provided, however, that no franchise may be sold or assigned or transferred unless (1) the franchisor has been given at least 30 days prior written notice as to the identity, financial ability and qualifications of the proposed transferee, and (2) the sale or transfer of the franchise and business will not involve, without the franchisor's consent, a relocation of the business;

(4) To grant an additional franchise for a particular line-make of motor vehicle in a trade area already served by a dealer or dealers in that line-make unless the franchisor has first advised in writing such other dealers in the line-make in the trade area; provided that no such additional franchise may be established in the trade area if the Commissioner has determined, if requested by any party within 30 days after receipt of the franchisor's notice of intention to establish the additional franchise, and after a hearing on the matter, that there is reasonable evidence that after the grant of the new franchise, the market will not support all of the dealerships in that line-make in the trade area; trade areas are those areas specified in the franchise agreement or determined by the Motor Vehicle Dealers' Advisory Board.

(5) Notwithstanding the terms of any franchise agreement to terminate, cancel, or refuse to renew the franchise of any dealer, without good cause, and unless (1) the dealer and the Commissioner have received written notice of the franchisor's intentions at least 60 days prior to the effective date of such termination, cancellation, or the expiration date of the franchise, setting forth the specific grounds for such action, and (2) the Commissioner has determined, if requested in writing by the dealer within such 60-day period, and after a hearing on the matter, that there is good cause for the termination, cancellation,

or nonrenewal of the franchise, except in the event of fraud, insolvency, closed doors, or failure to function in the ordinary course of business, 15 days notice shall suffice; provided that in any case where a petition is made to the Commissioner for a determination as to good cause for the termination, cancellation, or nonrenewal of a franchise, the franchise in question shall continue in effect pending the Commissioner's decision; or

(6) Notwithstanding the terms of any franchise agreement, to prevent or refuse to honor the succession to a dealership by a member of the family of a deceased or incapacitated dealer if the Commissioner determines, if requested in writing by such member of the family within 30 days after the death or incapacity of the dealer, and after a hearing on the matter, that the failure to permit or honor such succession is unreasonable under the circumstances; provided, however, that no member of the family may succeed to a franchise unless (1) the franchisor has been given written notice as to the identity, financial ability and qualifications of the member of the family in question, and (2) the succession to the franchise will not involve, without the franchisor's consent, a relocation of the business."

Sec. 3. Chapter 20 of the General Statutes is hereby amended by adding G.S. 20-305.1 through G.S. 20-305.4 as follows:

"§ 20-305.1. *Automobile dealer warranty obligations.*—(a) Each motor vehicle manufacturer, factory branch, distributor or distributor branch, shall specify in writing to each of its motor vehicle dealers licensed in this State the dealer's obligations for preparation, delivery and warranty service on its products, the schedule of compensation to be paid such dealers for parts, work, and service in connection with warranty service, and the time allowances for the performance of such work and service. In no event shall such schedule of compensation fail to include reasonable compensation for diagnostic work as well as repair service and labor. Time allowances for the performance of warranty work and service shall be reasonable and adequate for the work to be performed. In the determination of what constitutes reasonable compensation under this section, the factors to be given consideration shall include, among others, the compensation being paid by other manufactureres to their dealers, the prevailing wage rates being paid by dealers, and the prevailing labor rate being charged by dealers, in the community in which the dealer is doing business.

(b) It is unlawful for any motor vehicle manufacturer, factory branch, distributor, or distributor branch to fail to perform any of its warranty obligations with respect to a motor vehicle, to fail to assume all responsibility for any liability resulting from structural or production defects, or to fail to compensate its motor vehicle dealers licensed in this State for warranty parts, work, and service in accordance with the schedule of compensation provided the dealer pursuant to subsection (a) above, or for legal costs and expenses incurred by such dealers in connection with warranty obligations for which the manufacturer, factory branch, distributor or distributor branch is legally responsible.

(c) In the event there is a dispute between the manufacturer, factory branch, distributor, or distributor branch, and the dealer with respect to any matter referred to in subsections (a) and (b) above, either party may petition the Commissioner in writing, within 30 days after either party has given written notice of the dispute to the other, for a hearing on the subject and the decision of

the Commissioner shall be binding on the parties, subject to rights of judicial review and appeal as provided in Article 33 of Chapter 143 of the General Statutes; provided, however, that nothing contained herein shall give the Commissioner any authority as to the content of any manufacturer's or distributor's warranty.

“§ 20-305.2. *Unfair methods of competition.*—It is unlawful for any motor vehicle manufacturer, factory branch, distributor, distributor branch, or subsidiary thereof, to own, operate, or control any motor vehicle dealership in a trade area of this State already served by a motor vehicle dealer under a franchise for the same line-make from such manufacturer, factory branch, distributor, or distributor branch, or subsidiary, provided that this section shall not be construed to prohibit (1) the operation by a manufacturer, factory branch, distributor, distributor branch, or subsidiary thereof, of a dealership for a temporary period (not to exceed one year) during the transition from one owner or operator to another, or (2) the ownership or control of a dealership by a manufacturer, factory branch, distributor, distributor branch, or subsidiary thereof, during a period while such dealership is being sold under a bona fide contract or purchase option to the operator of the dealership, or (3) the ownership, operation or control of a dealership by a manufacturer, factory branch, distributor, distributor branch, or subsidiary thereof, if such manufacturer, factory branch, distributor, distributor branch, or subsidiary has been engaged in the retail sale of motor vehicles through such dealership for a continuous period of three years prior to the effective date of this section, and if the Commissioner determines, after a hearing on the matter at the request of any party, that there is no independent dealer available in the trade area to own and operate the franchise in a manner consistent with the public interest, or, (4), the ownership, operation, or control of a dealership by a manufacturer, factory branch, distributor, distributor branch, or subsidiary thereof, if the Commissioner determines after a hearing on the matter at the request of any party, that there is no independent dealer available in the trade area to own and operate the franchise in a manner consistent with the public interest. Trade area is that area specified in the franchise agreement or determined by the Motor Vehicle Dealers' Advisory Board. Provided, this section shall not apply to manufacturers or distributors of trailers or semi-trailers.

“§ 20-305.3. *Hearing notice.*—In every case of a hearing before the Commissioner authorized under this Article, the Commissioner shall give reasonable notice of each such hearing to all interested parties, and the Commissioner's decision shall be binding on the parties, subject to the rights of judicial review and appeal as provided in Article 33 of Chapter 143 of the General Statutes. The costs of such hearings shall be assessed by the Commissioner.

“§ 20-305.4. *Motor Vehicle Dealers' Advisory Board.*—(a) The Motor Vehicle Dealers' Advisory Board shall consist of six members; three of which shall be appointed by the Speaker of the House of Representatives, and three of which shall be appointed by the Lieutenant Governor to consult with and advise the Commissioner with respect to matters brought before the Commissioner under the provisions of G.S. 20-304 through G.S. 20-305.4.

(b) Each member of the Motor Vehicle Dealers' Advisory Board shall be a resident of North Carolina. Three members of the board shall be franchised dealers in new automobiles or trucks, duly licensed and engaged in business as

such in North Carolina, provided that no two of such dealers may be franchised to sell automobiles or trucks manufactured or distributed by the same person or a subsidiary or affiliate of the same person. Three members of the board shall not be motor vehicle dealers or employees of a motor vehicle dealer.

(c) The Speaker shall appoint two of the dealer members and one of the public members and shall fill any vacancy in said positions and the Lieutenant Governor shall appoint one of the dealer members and two of the public members and shall fill any vacancy in said positions. In making the initial appointments the Speaker shall designate that the two dealer members shall serve for one and three years respectively and the public member shall serve for two years, and in making the initial appointments the Lieutenant Governor shall designate that the dealer member shall serve for two years and the two public members shall serve for one and three years respectively.

(d) Two members of the first board appointed shall serve for a period of three years, two members of the first board shall serve for a period of two years, and two members of the first board shall serve for a period of one year. Subsequent appointments shall be for terms of three years, except appointments to fill vacancies which shall be for the unexpired terms. Members of the board shall meet at the call of the Commissioner and shall receive as compensation for their services seven dollars (\$7.00) for each day actually engaged in the exercise of the duties of the board and such travel expenses and subsistence allowances as are generally allowed other State commissions and boards."

Sec. 4. The provisions of this act shall not apply to manufacturers of, or dealers in, mobile or manufactured type housing or recreational trailers.

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of March, 1973.

S. B. 40

CHAPTER 89

AN ACT TO AUTHORIZE THE SUPREME COURT TO PROMULGATE A CODE OF JUDICIAL CONDUCT FOR THE GUIDANCE OF THE JUDGES OF THE GENERAL COURT OF JUSTICE.

The General Assembly of North Carolina enacts:

Section 1. G.S. Chapter 7A, Article 3, is amended by inserting the following new section therein:

"§ G.S. 7A-14. The Supreme Court is authorized, by rule, to prescribe standards of judicial conduct for the guidance of all justices and judges of the General Court of Justice.

Sec. 2. This act shall become effective on ratification.

In the General Assembly read three times and ratified, this the 19th day of March, 1973.

S. B. 44

CHAPTER 90**AN ACT TO AMEND G.S. 7A-217(1) CONCERNING PERSONAL SERVICE OF PROCESS IN A SMALL CLAIM ACTION.**

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-217(1) is rewritten to read as follows: "By delivering a copy of the summons and of the complaint to him or by leaving copies thereof at the defendant's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein. When the defendant is under any legal disability, he may be subject to personal jurisdiction only by personal service of process in the manner provided by law."

Sec. 2. All laws and clauses of laws in conflict with this act are repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of March, 1973.

S. B. 60

CHAPTER 91**AN ACT TO AMEND GENERAL STATUTES 1A-1 (RULE 62) TO EXEMPT SUMMARY EJECTMENT CASES FROM THE RULE PROHIBITING EXECUTION ON A JUDGMENT WITHIN TEN DAYS.**

The General Assembly of North Carolina enacts:

Section 1. G.S. 1A-1, Rule 62 is amended in subsection (a) by deleting the opening words, which read "Except as stated herein", and inserting in lieu thereof "Except in summary ejectment cases and as otherwise stated herein".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of March, 1973.

H. B. 168

CHAPTER 92**AN ACT TO MAKE AN EXCEPTION TO THE MEDICAL PRACTICE ACT RELATING TO CERTAIN ACTS OF NURSES.**

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-18 is hereby amended by adding a new subsection (14) to read as follows:

"(14) The practice of nursing by a registered nurse engaged in the practice of nursing and the performance of acts otherwise constituting medical practice by a registered nurse when performed in accordance with rules and regulations developed by a joint subcommittee of the Board of Medical Examiners and the Board of Nursing and adopted by both boards."

Sec. 2. G.S. 90-6 is hereby amended by adding at the end thereof a new paragraph as follows:

"The Board of Medical Examiners shall appoint and maintain a subcommittee to work jointly with a subcommittee of the Board of Nursing to develop rules and regulations to govern the performance of medical acts by registered nurses. Rules and regulations developed by this subcommittee from time to time shall govern the performance of medical acts by registered nurses and shall become effective when adopted by both the Board of Medical

Examiners and the Board of Nursing. The Board of Medical Examiners shall have responsibility for securing compliance with these regulations.”

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of March, 1973.

H. B. 169

CHAPTER 93

AN ACT TO AMEND THE NURSE PRACTICE ACT TO ALLOW NURSES TO PERFORM CERTAIN MEDICAL ACTS, TO PROVIDE FOR EDUCATION CREDITS FOR CERTAIN LICENSED PRACTICAL NURSES AND FOR OTHER PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-158(3)a. of the General Statutes is hereby amended by inserting between the word “permit” as it appears at the end of the ninth line and “medical” as it appears at the beginning of the tenth line the following: “except under supervision of a physician licensed to practice medicine in North Carolina”.

Sec. 2. G.S. 90-162 is hereby amended by adding a new paragraph at the end thereof to read as follows:

“The Board of Nursing shall appoint and maintain a subcommittee of the Board to work jointly with a subcommittee of the Board of Medical Examiners to develop rules and regulations to govern the performance of medical acts by registered nurses. Rules and regulations developed by this subcommittee from time to time shall govern the performance of medical acts by registered nurses and shall become effective when they have been adopted by both the Board of Nursing and the Board of Medical Examiners. The Board of Medical Examiners shall have responsibility for securing compliance with these regulations.”

Sec. 3. G.S. 90-167.1 is hereby amended by inserting between the comma following the word “state” and the word “the” in the third line thereof the following: “or upon application to a diploma school in this State by a graduate of a military school comparable to those accredited under this Article”.

Sec. 4. G.S. 90-170(2)(c) is hereby amended by inserting between the comma following the word “article” and the word “or” as the same appear in the third line thereof the following: “or a comparable military school”.

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of March, 1973.

H. B. 262

CHAPTER 94

AN ACT TO AMEND G.S. 18A-28, RELATING TO TRANSPORTATION OF FIVE GALLONS OF ALCOHOLIC BEVERAGE, SO AS TO MAKE THE SECTION APPLICABLE TO THE CITY OF LEXINGTON.

The General Assembly of North Carolina enacts:

Section 1. G.S. 18A-28(g), as the same appears in the 1971 Cumulative Supplement to the General Statutes, is hereby amended by adding the word

"Lexington," immediately following the word "Jamestown," and preceding the word "Maxton," in the third line from the end thereof.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of March, 1973.

S. B. 76

CHAPTER 95

AN ACT TO AMEND G.S. 9-15(a) TO CLARIFY THE RIGHT OF COUNSEL TO QUERY PROSPECTIVE JURORS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 9-15(a) is rewritten to read as follows: "The court, and any party to an action, or his counsel of record shall be allowed, in selecting the jury, to make direct oral inquiry of any prospective juror as to the fitness and competency of any person to serve as a juror, without having such inquiry treated as a challenge of such person, and it shall not be considered by the court that any person is challenged as a juror until the party shall formally state that such person is so challenged."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of March, 1973.

H. B. 453

CHAPTER 96

AN ACT TO AMEND G.S. 106-465 RELATING TO THE AUCTION SALE OF LEAF TOBACCO SO AS TO REQUIRE TOBACCO WAREHOUSES TO CARRY ADEQUATE FIRE INSURANCE AND EXTENDED COVERAGE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 106-465 is amended by inserting between the second and third paragraphs the following:

"Each Tobacco Board of Trade organized pursuant to this section shall, on or before June 1, 1973, by regulation, require that all auction warehouse firms which are members of, or may hereafter request membership in, such Board of Trade for the purpose of displaying for sale and selling leaf tobacco, deposit with the Board of Trade prior to the market opening, a copy of a policy of fire insurance and extended coverage in a company licensed to do business in North Carolina to fully insure, as determined by the Board of Trade, the market value of the maximum volume of tobacco that will be weighed and left displayed for sale on said warehouse floor at any time during the marketing season. Warehouses using mechanized conveyor line auction sales where tobacco is not displayed for sale on sales floor would be excluded from the requirement of this regulation.

In determining the market value and maximum volume of tobacco that will be weighed and placed on said warehouse floor at any one time, the Board of Trade shall use as criteria the prior season's official gross average price for that belt, as recorded by the North Carolina Department of Agriculture and the maximum limit of daily sales, as recommended by the currently functioning flue-cured and burley tobacco marketing organizations, applied to each warehouse based on the firm's pro rata share of the market's maximum limit

daily sales opportunity, multiplied times the number of days of sales that said warehouse plans to place on sales floor at any one time, including any and all tobacco weighed and deposited with the warehouse as bailee for future sale. The data relating to the official average price and the maximum limits of daily sales shall be assembled and supplied by the North Carolina Commissioner of Agriculture or his representative to the Board of Trade in each tobacco market in North Carolina, at least 30 days prior to the opening of markets in each belt.

It shall be unlawful for any person, firm, or corporation to operate an auction sale in said market until said policy is so deposited with and approved by the Board of Trade. The Board of Trade shall enjoin the sale of tobacco by any warehouse firm that fails to so deposit a policy of fire insurance and extended coverage with the Board."

Sec. 2. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 21st day of March, 1973.

S. B. 373

CHAPTER 97

AN ACT AMENDING G.S. 143A-181 RELATING TO APPEALS TO THE CREDIT UNION COMMISSION FROM DECISIONS OF THE ADMINISTRATOR OF CREDIT UNIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143A-181(c) is amended by adding at the end thereof the following:

"An appeal may be taken to the Commission from any finding, ruling, order, decision or the final action of the administrator by any credit union which feels aggrieved thereby. Notice of such appeal shall be filed with the chairman of the Commission within thirty (30) days after such finding, ruling, order, decision or other action, and a copy served upon the administrator. Such notice shall contain a brief statement of the pertinent facts upon which such appeal is grounded. The Commission shall fix a date, time and place for hearing said appeal, and shall notify the credit union or its attorney of record thereof at least thirty (30) days prior to the date of said hearing."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of March, 1973.

S. B. 374

CHAPTER 98

AN ACT AUTHORIZING THE ADMINISTRATOR OF CREDIT UNIONS TO REQUIRE THE RETENTION OF CERTAIN CREDIT UNION RECORDS.

The General Assembly of North Carolina enacts:

Section 1. (a) Whenever in his judgment it may appear to be advisable, the Administrator of the Credit Union Division may issue such rules, instructions, and regulations prescribing the manner of preserving books,

accounts, and records of associations as will tend to produce uniformity in the books, accounts, and records of associations of the same class.

(b) The following provisions shall be applicable to all credit unions operating under the provisions of this Subchapter:

(1) Each credit union shall retain permanently the minute books of meetings of its members and directors and all records which the Administrator of the Credit Union Division shall in accordance with the terms of this section require to be retained permanently.

(2) All other credit union records shall be retained for such periods as the Administrator of the Credit Union Division shall in accordance with the terms of this section prescribe.

(3) The Administrator of the Credit Union Division shall from time to time issue regulations classifying all records kept by credit unions and prescribing the period for which records of each class shall be retained. Such periods may be permanent or for a lesser term of years. Such regulations may from time to time be amended or repealed, but any amendment or repeal shall not affect any action taken prior to such amendment or repeal. Prior to issuing any such regulations the Administrator of the Credit Union Division shall consider:

- a. actions at law and administrative proceedings in which the production of credit union records might be necessary or desirable;
- b. State and federal statutes of limitation applicable to such actions or proceedings;
- c. the availability of information contained in credit union records from other sources;
- d. such other matters as the Administrator of the Credit Union Division shall deem pertinent in order that his regulations will require credit unions to retain their records for as short a period as is commensurate with the interest of credit union members and of the people of this State in having credit union records available.

(4) Any credit union may cause any or all records kept by it to be recorded, copied or reproduced by any photographic, photostatic or miniature photographic process which correctly, accurately, and permanently copies, reproduces or forms a medium for copying or reproducing the original record on a film or other durable material.

(5) Any such photographic, photostatic or miniature photographic copy or reproduction shall be deemed to be an original record for all purposes and shall be treated as an original record in all courts and administrative agencies for the purpose of its admissibility in evidence. A facsimile, exemplification or certified copy of any such photographic copy or reproduction shall, for all purposes, be deemed a facsimile, exemplification or certified copy of the original record.

(6) Any credit union may dispose of any record which has been retained for the period prescribed by the Administrator of the Credit Union Division or in accordance with the terms of this section for retention of records for its class.

Sec. 2. This act shall become effective on July 1, 1973.

In the General Assembly read three times and ratified, this the 22nd day of March, 1973.

H. B. 391

CHAPTER 99

AN ACT TO TRANSFER CONTROL OF THE STATE LEGISLATIVE BUILDING TO THE GENERAL ASSEMBLY.

The General Assembly of North Carolina enacts:

Section 1. Article 7 of G.S. Chapter 120 is amended by adding a new section to read as follows:

“§ 120-32.1. *Use and maintenance of State Legislative Building.*—(a) The Legislative Services Commission shall determine policy governing the use of the State Legislative Building; make allocations of space within the State Legislative Building and grounds encompassed by Jones, Wilmington, Lane and Salisbury Streets; be responsible for the maintenance, security, control and care of the State Legislative Building; and promulgate rules and regulations governing the use of the State Legislative Building and its facilities. In discharging the responsibilities of maintenance of the State Legislative Building, the Legislative Services Commission may delegate to the Department of Administration the duty of performing the actual work of maintenance of the building, and the Department of Administration shall provide such maintenance services as may be delegated, subject to the direction of the Legislative Services Commission.

(b) The rules and regulations promulgated by the Legislative Services Commission under the authority of this section shall be posted in a conspicuous place in the State Legislative Building, and a copy of the rules and regulations and all amendments thereto, certified by the Chairman of the Legislative Services Commission, shall be filed in the office of the Secretary of State and in the office of the clerk of the Superior Court of Wake County. When so posted and filed, these rules and regulations shall constitute notice to all persons of the existence and text of the rules and regulations. Any person, whether on his own behalf or for another, or acting as an agent or representative of any person, firm, corporation, partnership or association, who knowingly violates any of the rules or regulations promulgated, posted and filed under the authority of this section is guilty of a misdemeanor, and upon conviction or a plea of guilty shall be punished by a fine or imprisonment in the discretion of the court, or by both such fine and imprisonment. Any person, firm, corporation, partnership or association who combines, confederates, conspires, aids, abets, solicits, urges, instigates, counsels, advises, encourages or procures another or others to knowingly violate any of the rules and regulations promulgated, posted and filed under the authority of this section is guilty of a misdemeanor and upon conviction or a plea of guilty shall be punished by a fine or imprisonment in the discretion of the court, or by both such fine and imprisonment.”

Sec. 2. That part of the appropriation made in the 1971 Budget Appropriations Act, Chapter 708 of the Session Laws of 1971, to the Department of Administration for the Legislative Building for the fiscal year 1972-1973, being the sum of two hundred fifty three thousand nine hundred three dollars (\$253,903) — Budget Code 10161, Item 5D — is transferred to the General Assembly, Budget Code 10021. The functions, duties and staff of the Department of Administration supported by the appropriation herein transferred are also transferred to the General Assembly to be administered by the Legislative Services Officer pursuant to policy directives of the Legislative Services Commission. Personnel transferred under this section shall be

transferred at their existing job classifications and salaries. The appropriation support for the expenditures made prior to the ratification of this act shall remain with the Department of Administration budget.

Sec. 3. Article 3 of Chapter 129 of the General Statutes is repealed. Any unexpended moneys held by the State Treasurer to the credit of the State Legislative Building Commission are transferred to the credit of the Legislative Services Commission. The Legislative Services Commission is authorized to use such moneys for capital improvements, alterations, and repairs to the State Legislative Building and for the purchase of equipment, furnishings or fixtures for the State Legislative Building.

Sec. 4. Article 3.1 of Chapter 129 of the General Statutes is repealed.

Sec. 5. This act shall take effect upon its ratification.

In the General Assembly read three times and ratified, this the 22nd day of March, 1973.

S. B. 92

CHAPTER 100

AN ACT TO PROVIDE THAT WATCHERS MAY BE APPOINTED FOR ELECTIONS IN ALL COUNTIES OF THE STATE.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of Chapter 1280, Session Laws of 1969, is hereby repealed.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of March, 1973.

S. B. 464

CHAPTER 101

AN ACT TO AUTHORIZE THE CREATION OF A BOARD OF PUBLIC SAFETY OF COLUMBUS COUNTY, AND TO ESTABLISH A COUNTY POLICE FORCE FOR SAID COUNTY.

The General Assembly of North Carolina enacts:

Section 1. There is hereby created the Columbus County Public Safety Commission, which shall be composed of five (5) reputable citizens of the county. The members shall be appointed by the General Assembly for terms of four (4) years and until their successors are appointed and qualified, except that of the members first appointed, two (2) shall be appointed for four (4) years and three (3) shall be appointed for two (2) years. Thereafter as the terms of the members expire their successors shall be appointed for terms of four (4) years. Members of the Commission shall be eligible for reappointment and vacancies shall be filled by the General Assembly for the unexpired portion of the term vacated. The General Assembly shall designate the chairman of the Commission. The Commission members shall designate their own secretary. Said Chairman shall have the same voting rights as other members of the Commission. The Chairman shall serve as such for a period of two (2) years and shall be eligible to succeed himself. For the transaction of business, it shall be necessary to have a quorum of three (3) members. Members of the Columbus County Public Safety Commission shall receive the same per diem

compensation as that received by members of the Columbus County Board of Commissioners.

Sec. 2. The Columbus County Public Safety Commission shall meet on the first Monday of each month, or the following Tuesday if the first Monday is a holiday, at the Columbus County Law Enforcement Center, to make plans for future activities, to discuss activities of the County Police Force of Columbus County during the previous month, to hear complaints from any citizen of the county, and to take up any other matters dealing with the business of law enforcement and public safety in the county. The time, date and place of special meetings shall be set by the Commission Chairman. A record shall be kept of all activities of all regular and special meetings of the Commission which shall be open to the public.

Sec. 3. The Commission shall appoint a chief of county police for the county and no more than ten (10) county policemen. The Commission may hire a clerk or other such personnel as it deems necessary and shall make all rules and regulations for governing the county police and shall be the final authority upon all matters relative to the conduct of such policemen.

Sec. 4. The Commission shall have exclusive jurisdiction of the Columbus County Law Enforcement Center, including the jail. The Commission shall employ the jailer, assistant jailers, clerk and all other personnel necessary for the carrying out of the provisions of this Article and for the orderly process of law enforcement and the upkeep and maintenance of the Columbus County Law Enforcement Center, including the jail.

Sec. 5. Terms of service of the county policemen, including the chief, shall be at the pleasure of the Commission, and the Commission shall have the exclusive power to remove any county policeman, including the chief. Such policeman shall first be allowed a hearing before the Commission prior to his removal; provided, however, that such county policeman may be suspended by the Commission pending such hearing. The Commission shall investigate promptly any complaint made against the chief or any policeman for neglect of duty, misuse of power, or misconduct in office.

Sec. 6. The chief and all the county policemen appointed by the Columbus County Public Safety Commission shall be bona fide residents of the county at the time of appointment, or shall become bona fide residents of the county thirty (30) days after the time of such appointment. They shall be able-bodied men, of good habits, not addicted to the use of alcoholic liquors or drugs, and physically able to perform the duties of county policemen. Each of such policemen shall, before entering on the duties of his office, enter into a bond, the surety to be approved by and filed with the clerk of court, payable to the county, in the sum of three thousand dollars (\$3,000) conditioned for the faithful performance of his duties and for such damages as may be sustained by reasons of his malfeasance in office or abusing his authority.

Sec. 7. The Commission may, at its discretion, require a written examination of each applicant for employment, but in every event no applicant shall be employed without having sufficient education to know and understand the duties of his office, and he shall be examined as to a legible handwriting for the purpose of maintaining permanent records of arrest and the filing of reports to his chief.

Sec. 8. The purpose of this act being the creation of a high quality police force for Columbus County, the Commission shall have the power to stipulate

the educational and training background of all applicants, including the chief, for positions on the County Police Force: provided, however, the minimum requirements for chief of the Columbus County Police shall be two (2) full years of college and two (2) years' experience in law enforcement, or five (5) years' experience in law enforcement at least two (2) of which were served in a supervisory capacity. Every officer appointed to the Columbus County Police shall have met, or taken the necessary courses to comply with the minimum standards established by the Criminal Justice Training Standards Council. The Commission members, while reviewing applications for members of the County Police Force, including the chief, shall give full consideration to the law enforcement education and prior law enforcement experience of all applicants, and shall not discriminate among applicants because of race, color, religion, sex, or national origin.

Sec. 9. The chief of police shall file, on a monthly basis, with the Commission, a detailed report of the activities of the County Police Force, and shall call to the attention of the Commission in the written report any and all matters which he feels sufficient to call to their attention. Each individual policeman shall file daily with the chief a report of his activities during the previous twenty-four hour period while on duty.

Sec. 10. Before entering the discharge of his duties, each Commissioner to the Columbus County Public Safety Commission shall take and subscribe to the following oath:

"I, _____, do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office as _____, so help me, God. (I do so affirm)."

The oath of office after being taken and subscribed by said Commissioner shall be filed with the clerk of court of said county.

Sec. 11. Before entering upon the discharge of his duties, the said policeman shall take and subscribe to the following oaths:

"I, _____, do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office as _____, so help me, God. (I do so affirm)." "I, _____, do solemnly swear (or affirm) that during my term of office as county policeman I will study the act creating the office in prescribing my duties and will be alert and vigilant to enforce the criminal laws of the State, and to apprehend and bring to punishment every violator of the same, and will conduct myself at all times with due consideration to all persons, and will not be influenced in any matter on account of personal bias or prejudice: so help me, God. (I do so affirm)."

The oath of office after being taken and subscribed by said policeman shall be filed with the Clerk of Superior Court of said county, together with the bond provided for in this act.

Sec. 12. No county policeman, including the chief of police, shall take part in any political activity or issue, and no county policeman shall be allowed to remain in office after announcing his candidacy for any political office.

Sec. 13. The chief of county police, in addition to his regular duties as a county policeman, shall have full command and authority over the regular

county policemen appointed under the authority of this Article and shall have the right, authority and duty of giving orders and directions to the county policemen in performance of their duties.

Sec. 14. It shall be the duty of said policemen, under the general control and direction of the chief, to patrol and police the county; to detect and prevent the violation of criminal laws of any and every kind; to make arrests upon their own initiative as well as upon information or complaint; to report their acts and all known or suspected violations of the criminal laws to the chief of police of the county; to obtain warrants for arrest for and to prosecute all persons who have violated any of the criminal laws; and they shall at all times obey and carry out the orders and instructions of the chief, when not inconsistent with the law and with this act. That the said county policemen shall have the power and authority and shall be required to serve all criminal processes and indictments issued by any lawful authority and placed in their hands for service, and may perform civil duties when directed by the chief.

Sec. 15. Chapter 470 of the Session Laws of 1949 is hereby repealed, and all duties created in that act establishing a Bureau of Identification for the County of Columbus are hereby vested in the Columbus County Police Force. The County Police Force shall have the duty to fingerprint and photograph all persons arrested in Columbus County for any offense in accordance with the law. It shall be the duty of the County Police Force, or if the chief of police deems it necessary, to designate one (1) policeman who shall serve as a criminal investigator, to make photographs at the scene of all homicides and to assist members of the Columbus County Police Force, as well as all other law enforcement agencies in the county, in any and all matters concerning criminal investigation including, but not limited to, fingerprinting, voice prints, photographs, supervision of lineups and chemical analysis.

Sec. 16. It being the purpose and intent of this act to create a County Police Force for Columbus County, whose primary responsibility shall be that detailed in Section 14, the sheriff of such county shall have the full power and the primary duty of civil process, and shall attend upon the Superior and District Courts while in session within the county. Said sheriff shall have no more than three (3) deputies (either regular or special), one (1) court officer, and one (1) clerk. If deemed necessary, the chief of the Columbus County Police Force shall have the power to call on the sheriff of Columbus County, and his deputies, to be of aid and assistance in all criminal matters.

Sec. 17. The Columbus County Public Safety Commission shall present to the County Commissioners, once per year, a proposed annual budget for all maintenance and operations of the Columbus County Police Force, including, but not limited to, uniforms, equipment, motor vehicles, and salaries. The County Commissioners shall provide adequate funding for such Commission and Police Force and for the sheriff and his deputies to insure the proper maintenance and operations of the Commission and Police Force and the sheriff's department, including but not limited to, uniforms, equipment, motor vehicles, and salaries.

Sec. 18. In accordance with the terms of this act, members of the Columbus County Public Safety Commission shall be appointed on or before May 1, 1973. Said commissioners shall draw and present to the County Commissioners a budget for the Commission, and the Columbus County Police Force, on or before June 1, 1973. The Commission members shall select a police

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chief on or before August 1, 1973. Members of the Columbus County Police shall be hired, equipped, and assume the full duties of their office on October 1, 1973. In accordance with the terms of Section 16 of this act, the sheriff shall select and appoint three (3) deputies (either regular or special), one (1) court officer, and one (1) clerk to begin their duties on October 1, 1973.

Sec. 19. All laws or sections of laws in conflict with this act are hereby repealed.

Sec. 20. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of March, 1973.

H. B. 382

CHAPTER 102

AN ACT TO AMEND CHAPTER 856, SESSION LAWS OF 1963, PROVIDING FOR THE ELECTION AND TERMS OF OFFICE OF THE MEMBERS OF THE BOARD OF EDUCATION OF THE RALEIGH CITY SCHOOL ADMINISTRATIVE UNIT TO CONFORM THE DATE OF ELECTION TO THE REGULAR MUNICIPAL ELECTIONS TO BE HELD FOR THE CITY OF RALEIGH.

The General Assembly of North Carolina enacts:

Section 1. Chapter 856, Session Laws of 1963, is hereby amended by rewriting Section 1 to read as follows:

"Section 1. Presently incumbent members of the Board of Education of the Raleigh City School Administrative Unit hold terms of office as follows: W. Casper Holroyd, Jr., a term to expire July 1, 1975; H. Gilliam Nicholson, a term to expire July 1, 1975; Mrs. Betsy G. Runkle, a term to expire July 1, 1975; Walter L. Brown, Jr., a term to expire July 1, 1973; Mrs. William M. Craven, a term to expire July 1, 1973; J. C. Knowles, a term to expire July 1, 1973; and Vernon Malone, a term to expire July 1, 1973. The current terms of the aforementioned members of the Board of Education are hereby extended until such time as their successors are elected and qualify under the provisions of Section 2 of this act."

Sec. 2. Chapter 856, Session Laws of 1963, is further amended by rewriting Section 2 thereof to read as follows:

"Sec. 2. The Board of Education of the Raleigh City School Administrative Unit shall consist of seven (7) members. At the regular municipal elections to be held in and for the City of Raleigh in November 1973, there shall be elected four members of the Board of Education to succeed those four members of the Board of Education whose terms were previously slated to expire on July 1, 1973. The terms of the four members of the Board of Education elected in the municipal elections held in November 1973 shall be for a term of four (4) years commencing on the first Monday in December following the election and until their successors are elected and qualify. In the municipal elections held in November 1975 and biennially thereafter, there shall be elected the number of members equal to the number of members whose terms next expire during the year of such election, such members to be elected for the terms of four (4) years

commencing on the first Monday in December following the election and until their successors are elected and qualify."

Sec. 3. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 4. This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of March, 1973.

H. B. 398

CHAPTER 103

AN ACT TO PROHIBIT THE HUNTING OR TAKING OF BEAR IN TYRRELL COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It shall be unlawful for any person to take or hunt bear in the county of Tyrrell at any time during the next two years.

Sec. 2. Violation of this act shall be a misdemeanor punishable by fine or imprisonment at the discretion of the court.

Sec. 3. This act shall be in full force and effect on and after June 9, 1973.

In the General Assembly read three times and ratified, this the 26th day of March, 1973.

H. B. 402

CHAPTER 104

AN ACT AMENDING CHAPTER 551 OF THE SESSION LAWS OF 1969 RELATING TO FINANCIAL ASSISTANCE TO PERSONS RELOCATED BY MUNICIPAL ACTION.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 551 of the Session Laws of 1969 is hereby amended by adding after "Cleveland," the following: "Forsyth,".

Sec. 2. All laws and clauses of laws in conflict herewith are hereby repealed.

Sec. 3. This act shall be in full force and effect upon ratification.

In the General Assembly read three times and ratified, this the 26th day of March, 1973.

H. B. 417

CHAPTER 105

AN ACT TO FIX THE SALARY OF THE REGISTER OF DEEDS OF HARNETT COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The salary of the Register of Deeds of Harnett County shall be seven thousand five hundred dollars (\$7,500) per year.

Sec. 1.1. This act does not limit or restrict the authority of the Board of Commissioners of Harnett County to alter the salary of the register of deeds pursuant to G.S. Chapter 153, Article 6A, or any statute revising that statute.

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of March, 1973.

H. B. 617

CHAPTER 106

AN ACT RELATING TO RACCOON HUNTING IN WILKES COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It shall be unlawful, while training dogs to hunt raccoons during the closed season for raccoon, for any person accompanying such dogs to kill or attempt to kill any raccoon by or with the use of any rifle, shotgun or other firearm.

Sec. 2. Any person convicted of violating this act shall be punished by a fine of not less than one hundred dollars (\$100.00) nor more than two hundred fifty dollars (\$250.00).

Sec. 3. This act shall apply only to Wilkes County.

In the General Assembly read three times and ratified, this the 26th day of March, 1973.

S. B. 177

CHAPTER 107

AN ACT TO AMEND G.S. 20-87(7) TO CLARIFY PROVISIONS RELATING TO FEES FOR DEALERS' PLATES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-87(7) is hereby rewritten to read as follows:

"(7) Manufacturers and Motor Vehicle Dealers. Manufacturers and dealers in motor vehicles, trailers and semitrailers for license and for one set of dealer's plates for each place of business licensed under Article 12 of Chapter 20 of the General Statutes shall pay the sum of thirty-five dollars (\$35.00), and for each additional set of dealer's plates the sum of one dollar (\$1.00)."

Sec. 2. This act shall become effective on July 1, 1973.

In the General Assembly read three times and ratified, this the 28th day of March, 1973.

H. B. 64

CHAPTER 108

AN ACT TO DELETE REFERENCES TO JUSTICE OF THE PEACE AND CONSTABLE AND OTHERWISE CONFORM VARIOUS SECTIONS OF THE GENERAL STATUTES TO THE TERMINOLOGY AND PROCEDURE OF THE JUDICIAL DEPARTMENT ACT OF 1965, AS AMENDED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-73.1 is amended by changing the comma (,) after "misdemeanor" in line four to a period (.), and deleting the remainder of the section.

Sec. 2. G.S. 14-121 is amended by deleting from lines three and four "justice of the peace" and inserting in lieu thereof "magistrate".

Sec. 3. G.S. 14-134 is amended by deleting from line six "justice of the peace" and by deleting from lines nine and 12 "justice", and inserting in lieu thereof in each case "magistrate".

Sec. 4. G.S. 14-181 and 14-182 are repealed.

Sec. 5. G.S. 14-230 is amended by deleting from line two "justice of the peace" and inserting in lieu thereof "magistrate", by deleting from lines two and

three "recorder, prosecuting attorney of any recorder's court," and by deleting from line four "constable".

Sec. 6. G.S. 14-232 is amended by deleting from line two "justice of the peace" and inserting in lieu thereof "magistrate", and by deleting from line three "constable".

Sec. 7. G.S. 14-239 is amended by deleting "constable" from lines three, six, and eight.

Sec. 8. G.S. 14-240 is amended by deleting "constable" from line five.

Sec. 9. G.S. 14-245 is repealed.

Sec. 10. G.S. 14-246 is amended by deleting from each of lines one and two "justice of the peace" and inserting in lieu thereof "magistrate", and by inserting "all money," in line four after "books,".

Sec. 11. G.S. 14-298 is amended by deleting from line one "justices of the peace," and by deleting from line two "constables".

Sec. 12. G.S. 14-299 is amended by deleting from lines four and five "justice of the peace or other", and by deleting from line five "his or".

Sec. 13. G.S. 14-337 is repealed.

Sec. 14. G.S. 26-1 is rewritten to read as follows:

"In the trial of actions upon contracts either of the defendants may show in evidence that he is surety, and if it be satisfactorily shown, the jury in their verdict, or the magistrate in his judgment, shall distinguish the principal and surety, which shall be endorsed on the execution by the clerk of superior court."

Sec. 15. G.S. 26-3 is rewritten to read as follows:

"Any person who may have paid money for and on account of those for whom he became surety, upon producing to the clerk of superior court, a receipt, and showing that an execution has issued, and he has satisfied the same, and making it appear by sufficient testimony that he has expended any sum of money as the surety of such person, may move the clerk for judgment against his principal for the amount which he has actually paid; a citation having previously issued against the principal to show cause why execution should not be awarded; and should the principal not show sufficient cause, the clerk shall award execution against the principal."

Sec. 16. G.S. 26-6 is rewritten to read as follows:

"Whenever any judgment shall be obtained against a principal and his surety, and the principal debtor shall desire to stay the execution thereon, but the surety is unwilling that such stay shall be had, the surety may cause his dissent thereto to be entered by the judge or clerk, which shall absolve him from all liability to the surety who may stay the same. And the sheriff or other officer, who may have the collection of the debt, shall make the money out of the property of the principal debtor, and that of the surety for the stay of execution, if he can, before he shall sell the property of the surety before judgment."

Sec. 17. G.S. 42-19 is amended by deleting "constable" from lines three and four, and inserting in lieu thereof "sheriff".

Sec. 18. G.S. 54-32 is amended by deleting from the fifth line "before any justice of the peace" and inserting in lieu thereof "in the district court".

Sec. 19. G.S. 54-166 is amended by deleting "Supreme Court" from line 24 of subsection (c), and inserting "appellate division" in lieu thereof.

Sec. 20. G.S. 58-236 is amended by deleting from lines 15 and 16 "as in cases of appeal from a justice of the peace".

Sec. 21. G.S. 62-65(b) is amended in lines seven and eight by deleting

“Justices of the Supreme Court and judges of the superior courts.”, and inserting in lieu thereof “justices and judges of the General Court of Justice.”.

Sec. 22. G.S. 66-2 is repealed.

Sec. 23. G.S. 66-9 is amended by deleting from lines three and four of the second paragraph “before a justice of the peace” and inserting in lieu thereof “in the district court”.

Sec. 24. G.S. 67-3 is amended by deleting from the third line “justice of the peace of” and inserting in lieu thereof “judge of the district court in”.

Sec. 25. G.S. 73-23 is repealed.

Sec. 26. G.S. 76-11 is rewritten to read as follows:

“Each member of the board shall have the power and authority to hear and determine any matter of dispute between any pilot and any master of a vessel, or between pilots themselves respecting the pilotage of any vessel, and any member of the board may issue a warrant against any pilot for the recovery of any demand which one pilot may have against another, relative to pilotage, and for the recovery of any forfeiture or penalty provided by law, relating to pilotage on Cape Fear River and Bar, or provided by any bylaw or rule or regulation enacted by the board by virtue of any such law, which warrant the sheriff in New Hanover or Brunswick counties shall execute together with any other process authorized by this article. On any warrant issued as herein provided, any one of the commissioners may give judgment for any sum not exceeding five hundred dollars (\$500.00), and may issue execution thereon, in like manner as is provided for the issuing of execution on judgments rendered by magistrates, which writ of execution shall be executed agreeably to the law regulating levy and sale under executions issuing from the General Court of Justice. Any member of the board shall have authority to issue summons for witnesses and to administer oaths, and hearings before any member of the board on any matters as provided in this section shall conform as nearly as possible to procedure provided by law in courts of magistrates. From any judgment rendered by any member of the board, either party shall have the right of appeal to the district court of New Hanover or Brunswick counties, in the same manner as appeals from judgments of magistrates.”

Sec. 27. G.S. 76-18 is amended by rewriting subsection (2) to read as follows:

“(2) To arrest any person violating this chapter, and to immediately bring the offender before a magistrate of the county in which such offense may be committed.”

Sec. 28. G.S. 76-25 is amended by deleting from line eight “justice of the peace”, and inserting in lieu thereof “magistrate”.

Sec. 29. G.S. 76-37 is amended by deleting from line 26 “justice of the peace” and inserting in lieu thereof “clerk of the superior court or magistrate”.

Sec. 30. G.S. 76-50 is amended by deleting from lines five and six “before a justice of the peace, if the sum be within his jurisdiction” and inserting in lieu thereof “in the district court”.

Sec. 31. G.S. 76-67 is rewritten to read as follows:

“Each member of the board shall have power and authority to hear and determine any matter of dispute between any pilot and any master of a vessel, or between pilots themselves respecting the pilotage of any vessel, and any member of the board may issue a warrant against any pilot for the recovery of any demand which one pilot may have against another, relative to pilotage, and for

the recovery of any forfeiture or penalty provided by law, relating to pilotage in Old Topsail Inlet and Beaufort bar, or provided by any bylaw or rule or regulation enacted by the board by virtue of any such law, which warrant the sheriff in Carteret County shall execute together with any other process authorized by this article. On any warrant issued as herein provided, any one of the commissioners may give judgment for any sum not exceeding five hundred dollars (\$500.00), and may issue execution thereon, in like manner as is provided for the issuing of execution on judgments rendered by magistrates, which writ of execution shall be executed agreeably to the law regulating the levy and sale under executions issuing from the General Court of Justice. Any member of the board shall have authority to issue summons for witnesses and to administer oaths, and hearings before any member of the Board on any matters as provided in this section shall conform as nearly as possible to procedure provided by law in courts of magistrates. From any judgment rendered by any member of the board, either party shall have the right of appeal to the district court of Carteret County, in the same manner as appeals from judgments of magistrates."

Sec. 32. G.S. 80-25 is amended by deleting from lines six and seven "and shall receive for the recording of such copies a fee of fifty cents".

Sec. 33. G.S. 80-28 is amended as follows: delete from line three "justice of the peace" and insert in lieu thereof "magistrate"; delete from lines six and 11 "justice" and insert in lieu thereof in each case "magistrate"; delete from line seven "constable"; and delete "for trial" from the end of the last sentence.

Sec. 34. G.S. 80-29 is rewritten to read as follows:

"If any person shall be found to be guilty of violating any of the provisions of this article, the court trying such person and imposing the punishment herein prescribed shall also award possession to the owner of all the property involved in such violation."

Sec. 35. G.S. 84-1 is amended by deleting "justice of the Supreme Court, judge of the Court of Appeals, or judge of the superior court," and inserting in lieu thereof "justice or judge of the General Court of Justice".

Sec. 36. G.S. 84-2 is amended by deleting from line two "prosecutor, full-time assistant prosecutor," inserting in lieu thereof "public defender, assistant public defender," and by deleting from line four "nor any justice of the peace".

Sec. 37. G.S. 84-3 is repealed.

Sec. 38. G.S. 85-9 is amended by deleting from the last line "as in the case of an appeal from a justice of the peace".

Sec. 39. G.S. 85A-22 is rewritten to read as follows:

"The following persons or classes shall not be bail bondsmen or runners and shall not directly or indirectly receive any benefits from the execution of any bail bond: jailers, police officers, magistrates, sheriffs, deputy sheriffs, and any person having the power to arrest or having anything to do with the control of federal, State, county or municipal prisoners."

Sec. 40. G.S. 90-158.31 is amended by deleting from line three "constable", deleting from line four "issued out of the superior courts", and deleting the last sentence.

Sec. 41. G.S. 95-4 is amended by deleting from line four of subsection (6)

“justice of the peace or”, and by deleting from line six “or the prosecuting attorney of any city or county court.”.

Sec. 42. G.S. 95-52 is amended by deleting from lines five and six “before a justice of the peace”.

Sec. 43. G.S. 96-10 is amended by deleting from subsection (b)(1) thereof the sentence beginning in line 24 that refers to a clerk’s fee.

Sec. 44. G.S. 98-3 is amended by deleting from the second line of the last paragraph “at term”.

Sec. 45. G.S. 98-6 is amended by deleting from line seven “at term”.

Sec. 46. G.S. 98-14 is amended by deleting from line one of subsection (4) “at term” and by deleting from line two of subsection (6) “at term,”.

Sec. 47. G.S. 103-3 is amended by deleting from line two “constable”.

Sec. 48. G.S. 104B-8 is amended by deleting from line three of subsection (b) “and constables”.

Sec. 49. G.S. 105-22 is amended by deleting subsection (c).

Sec. 50. G.S. 105-24 is amended by deleting all words following “interest.” in line 40 through “repealed.” in line 51.

Sec. 51. G.S. 105-109 is amended by deleting from line 11 of subsection (d) “before some justice of the peace or recorder in the county”.

Sec. 52. G.S. 105-375(b) is amended by deleting the second sentence which refers to special books for filing tax certificates.

Sec. 53. G.S. 106-125 is amended by deleting from lines two and three of subsection (b) “the judge of any recorder’s, county,” and inserting in lieu thereof “a judge of the district”.

Sec. 54. G.S. 106-126 is amended by deleting from line two “a recorder’s, county, or superior court” and inserting in lieu thereof “the superior court”.

Sec. 55. G.S. 106-284.12 is amended by deleting from line 15 “and the solicitors of inferior courts”.

Sec. 56. G.S. 106-459 is amended by inserting a period (.) after “same” in line four and deleting all thereafter.

Sec. 57. G.S. 109-25 is amended by deleting from line seven of paragraph one “or justice of the peace”, deleting paragraph two, and by inserting a period (.) after “sale” in line two of paragraph four, and deleting all thereafter.

Sec. 58. G.S. 109-30 is amended by deleting from line three “, or of the justice,”.

Sec. 59. G.S. 109-34 is amended by deleting from line three “constable,”.

Sec. 60. G.S. 109-36 is amended in line two by deleting “constable,” and in line seven by deleting “term” and inserting “session” in lieu thereof.

Sec. 61. G.S. 109-38 is amended by deleting from line two “constables,”.

Sec. 62. G.S. 109-39 is amended by deleting from line two “, coroner or constable” and inserting in lieu thereof “or coroner”.

Sec. 63. G.S. 112-28 is amended by deleting from line six “or a justice of the peace”.

Sec. 64. G.S. 113-50 is rewritten to read as follows:

“The minimum fine for any offense mentioned in the preceding section (Sec. 113-49) committed within any State forest shall be fifty dollars (\$50.00) if

within the jurisdiction of the district court, and twenty-five dollars (\$25.00) if within the jurisdiction of the magistrate.”

Sec. 65. G.S. 113-55 is amended by deleting from line seven “justice of the peace” and inserting in lieu thereof “magistrate”.

Sec. 66. G.S. 113-92 is amended by deleting from line three “constables”, and by deleting all after the first sentence.

Sec. 67. G.S. 116-44 is amended by changing the semi-colon (;) in line four to a period (.) and deleting the remainder of the first sentence.

Sec. 68. G.S. 120-11 is amended by deleting from lines one and two “justice of the peace, or any”.

Sec. 69. G.S. 120-16 is amended by deleting from line four “before any justice of the peace” and inserting in lieu thereof “in the district court”.

Sec. 70. G.S. 120-44 is amended by deleting from line five “justice of the peace” and inserting in lieu thereof “magistrate”.

Sec. 71. G.S. 122-16 is amended by deleting from line 14 “before any justice of the peace” and inserting in lieu thereof “in the district court”.

Sec. 72. G.S. 122-22 is amended by deleting from line four “justice of the peace” and inserting in lieu thereof “magistrate”, and by deleting from line nine “justice” and inserting in lieu thereof “magistrate”.

Sec. 73. G.S. 122-33 is amended by deleting from the end of line nine the word “some”, and further deleting lines 10 and 11, and inserting in lieu thereof “a magistrate, who may issue a warrant and proceed as in other criminal cases before him.”

Sec. 74. G.S. 122-34 is amended by deleting from line three “justice of the peace of the county, or other”.

Sec. 75. G.S. 122-43 is amended by deleting the second and fourth paragraphs, and by deleting from the second line of the third paragraph “seven cents (7¢)”, and inserting in lieu thereof “ten cents (10¢)”.

Sec. 76. G.S. 122-64 is amended by deleting “seven cents (7¢)” from line three of the second paragraph, inserting “ten cents (10¢)” in lieu thereof, and by deleting the last sentence from the second paragraph.

Sec. 77. G.S. 122-65.6 is amended by rewriting subsection (3) to read as follows:

“(3) ‘Court’ shall mean either the district or superior court division of the General Court of Justice.”

Sec. 78. G.S. 122-84 is amended by deleting from line eight “term” and inserting in lieu thereof “session”.

Sec. 79. G.S. 122-87 is amended by deleting from line five “criminal” and inserting in lieu thereof “district”, by deleting from line nine “term” and inserting in lieu thereof “session”, and by deleting from line 10 “criminal” and inserting in lieu thereof “district”.

Sec. 80. G.S. 127-46 is amended by deleting from line three “constable.”.

Sec. 81. G.S. 127-47 is amended by deleting from line seven “constable.”.

Sec. 82. G.S. 128-16 is amended by rewriting the first three lines to read as follows:

“Any sheriff or police officer shall be removed from office by the”.

Sec. 83. G.S. 128-20 is amended by deleting from line three “term” and inserting in lieu thereof “session”.

Sec. 84. G.S. 135-20(1) is amended by changing the comma (,) after “instrumentalities” to a period (.), and deleting all thereafter.

Sec. 85. G.S. 136-109 is amended by deleting “at term” from line nine of subsection (a) and from line five of subsection (d).

Sec. 86. G.S. 139-18 is amended by deleting from line 11 of subsection (d) “justice of the peace” and inserting in lieu thereof “magistrate”.

Sec. 87. G.S. 139-21 is amended by deleting from line six subsection (e) “justice of the peace” and inserting in lieu thereof “magistrate”.

Sec. 88. G.S. 143-215.5 is amended by deleting from each of lines 14 and 15 “Supreme Court” and inserting in lieu thereof in each case “appellate division”.

Sec. 89. G.S. 143-215.15 is amended by deleting from each of lines 14 and 15 of subsection (g) “Supreme Court” and inserting in lieu thereof in each case “appellate division”.

Sec. 90. G.S. 148-59 is amended by deleting from the second line “and the clerks of all inferior courts”, and by deleting from subsection (3) “term” and inserting in lieu thereof “session”.

Sec. 91. G.S. 150-30 is amended by deleting from line two and lines six and seven “Supreme Court”, and inserting in lieu thereof in each case “appellate division”.

Sec. 92. G.S. 152-7 is amended by deleting from line six of subsection (4) “before justices of the peace” and inserting in lieu thereof “in the district court”.

Sec. 93. G.S. 152-10 is amended by deleting from line three “before a justice of the peace or a recorder”, by deleting from line five “justices of the peace” and inserting in lieu thereof “magistrates”, and by inserting “or district” after “superior” in line seven.

Sec. 94. G.S. 156-10 is amended by deleting from line 17 “at term time”.

Sec. 95. G.S. 156-15 is amended by deleting from line seven “justice of the peace”, by deleting from lines nine and 10 “justice”, by inserting in lieu of each of the three deletions “magistrate”, and by deleting the last sentence.

Sec. 96. G.S. 156-75 is amended by deleting from line eight “term time” and inserting in lieu thereof “session”.

Sec. 97. G.S. 156-134 is amended by deleting from line six of the last paragraph “term” and inserting in lieu thereof “session”.

Sec. 98. G.S. 162-14 is amended by deleting “term” from line 10 of paragraph one and inserting in lieu thereof “session”, and by deleting paragraph three.

Sec. 99. G.S. 161-24, 162-6, and 162-7, and all other laws and parts of laws in conflict with this act, are repealed.

Sec. 100. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1973.

H. B. 103

CHAPTER 109

AN ACT TO PROVIDE FOR STATE OPERATION OF LOCAL PUBLIC HEALTH DEPARTMENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130 is hereby amended by inserting therein a new section to be designated G.S. 130-14.2 and to read as follows:

“§ 130-14.2. Subject to the approval of all boards of county commissioners having jurisdiction, county and district boards of health are empowered to enter into contracts with the State Board of Health for the furnishing of services required by this article when, in the opinion of the State Board of Health and the local board of health of any county or district, special problems or special projects arise which could be handled more advantageously by direct State provision of local public health services.

Whenever a county or a district contracts with the State for provision of public health services, the policy-making board for the health department shall be appointed and constituted as provided by G.S. 130-13 in the case of county departments and as provided by G.S. 130-14 in the case of district departments.”

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1973.

H. B. 104

CHAPTER 110

AN ACT TO PROVIDE FOR REGULATION OF LOCAL HEALTH SERVICES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-9 is hereby amended by adding a new subsection (g):

“(g) The State Board of Health upon consultation with a Public Health Standards Advisory Committee to be composed of three Local Health Directors, three Local Board of Health Chairmen, and three County Commissioners (which Commissioners shall be chosen from a list of five persons recommended by the North Carolina Association of County Commissioners), all to be appointed by the State Health Director, shall have power, in the best interests of the public health, to establish reasonable standards governing the nature and scope of public health services rendered by local health departments. The Board may provide financial support to units complying with these standards.”

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1973.

H. B. 434

CHAPTER 111

AN ACT TO INCORPORATE THE TOWN OF HARRISBURG IN CABARRUS COUNTY SUBJECT TO AN ELECTION.

The General Assembly of North Carolina enacts:

Section 1. (a) The Board of Elections in Cabarrus County is hereby authorized to call and conduct a special election on such date as it shall determine for the purpose of submitting to the qualified voters for the area hereinafter described as the proposed corporate limits of the Town of Harrisburg, the question whether or not such area shall be incorporated as a municipal corporation known as the Town of Harrisburg. On the election day, the polls shall be open from 6:30 a.m. until 7:30 p.m. The Board of Elections for Cabarrus County in conducting the election required to be held herein shall follow the procedure as outlined in this act and Articles 23 and 24 of the General Statutes of North Carolina relating to municipal elections where not in conflict with this act.

(b) Not later than thirty (30) days prior to the date on which the registration books are required to be closed, the Board of Elections of Cabarrus County shall cause to be posted at the Harrisburg Post Office, and at such other public places as the Board may choose, a notice stating the time, the polling place, and the purpose of the special elections; the names of the registrar and judges of election, the dates, hours, and place or places of registration. The Board of Elections may, in its discretion, also cause such notice to be published one or more times in a newspaper having general circulation in the Harrisburg Community.

(c) In the special election, those voters who favor the incorporation of the Town of Harrisburg as provided in this act shall vote a ballot upon which shall be printed the words: "FOR *Incorporation of the Town of Harrisburg*", and those voters who are opposed to the incorporation of the Town of Harrisburg as provided in this act shall vote a ballot upon which shall be printed the words: "AGAINST *Incorporation of the Town of Harrisburg*".

Sec. 2. If a majority of the votes cast in such special election shall be cast "AGAINST *Incorporation of the Town of Harrisburg*", then "the Charter of the Town of Harrisburg" of this act shall have no force and effect.

Sec. 3. If a majority of the votes cast in such special election shall be cast "FOR *Incorporation of the Town of Harrisburg*", then "the Charter of the Town of Harrisburg" of this act shall be in full force and effect from and after the date upon which a certificate of election shall have been issued by the Chairman of the Cabarrus County Board of Elections in accordance with G.S. 163-301.

Sec. 4. The following provisions of law shall constitute the Charter of the Town of Harrisburg in Cabarrus County.

"THE CHARTER OF THE TOWN OF HARRISBURG.

"ARTICLE 1. INCORPORATION AND CORPORATE POWERS.

"Section 1.1. Incorporation and General Powers. The inhabitants of the area described in Section 2.1 of this Charter shall be and constitute a body politic and corporate under the name of the 'Town of Harrisburg', and shall be vested with all property which may be acquired by the Town, and all rights herein delegated to it; shall have perpetual succession; may have a common seal and alter and renew the same at pleasure; may sue and be sued; may contract; may acquire and hold all such property, real and personal, as may be devised,

bequeathed, sold or in any manner conveyed to, dedicated to, or otherwise acquired by it, and may from time to time hold or invest, sell, or dispose of the same; and shall have and may exercise in conformity with this Charter all municipal powers, functions, rights, privileges, and immunities of every name and nature.

"Sec. 1.2. Exercise of Powers. All powers, functions, rights, privileges, and immunities of the Town, its officers, agencies, or employees, shall be carried into execution as provided by this Charter, or, if this Charter makes no provision, as provided by ordinance or resolution of the Town Council and as provided by the general laws of North Carolina pertaining to municipal corporations.

"Sec. 1.3. Enumerated Powers Not Exclusive. The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive but, in addition to the powers enumerated herein or implied hereby, or those appropriate to the exercise of such powers, the Town of Harrisburg shall have and may exercise all powers which are granted to municipal corporations by the general laws of North Carolina and all powers which, under the Constitution of North Carolina, it would be competent for this Charter specifically to enumerate.

"ARTICLE II. CORPORATE BOUNDARIES.

"Sec. 2.1. Corporate Boundaries. The corporate boundaries of the Town of Harrisburg, until changed in accordance with law are as follows:

BEGINNING at a point south of N.C. Highway 49, said point being located 40 feet south of and normal to the centerline of Highway 49 at the Northwestern corner of Parcel 12.1, Map 13, thence in a southerly direction along the westerly property line of said parcel approximately 950 feet to the southwesterly corner of said parcel, thence in an easterly direction 230 feet to the southeasterly corner of said parcel, thence in a northerly direction along the easterly property line of said parcel 947 feet to a point located 40 feet south of and normal to Highway 49, thence in an easterly direction south of and parallel to the centerline of Highway 49 to a point 125 feet in parcel 12, thence in a southerly direction 140 feet to a point in said parcel, thence in a southeasterly direction 646 feet to a point in said parcel, thence in an easterly direction of said parcel 375 feet, thence in a southerly direction along the westerly property line of parcel 81, 252 feet to the northeasterly corner of parcel 78.1, thence in a westerly direction along the property line of said parcel approximately 235 feet, thence in a southerly direction along the westerly property line of said parcel 210 feet, thence in an easterly direction along the southerly property line of said parcel 248 feet, thence in a northerly direction along the easterly property line of said parcel 78 feet to a point 40 feet south of and normal to the centerline of Forrest Street, thence in an easterly direction south of and parallel to the centerline of Forrest Street 25 feet to the Westerly property line of parcel 8.1, thence in a southerly direction along the westerly property line of said parcel approximately 184 feet to the southwesterly corner of said parcel, thence in an easterly direction along the property lines of parcels 77, 76, 75, 74, 73; 72 crossing Alexander Avenue to a point 40 feet east of and normal to the centerline of Alexander Avenue, thence in a northerly direction 40 feet east of and parallel to the centerline of Alexander Avenue approximately 200 feet, thence in an easterly direction along the southerly property line of parcel 66.1 for 192 feet, thence in a southerly direction along the westerly property line of parcels 65, 61, 60

for 860 feet, thence in an easterly direction along the southerly property line of parcel 58 and parcel 9 approximately 872 feet as shown on Map 15 to the northwesterly corner of Parcel 10, thence along the southwesterly property line of said parcel 520 feet, thence in a westerly direction along the northerly property line of Parcel 11 approximately 87 feet, thence in a southerly direction along the westerly property line of said parcel, crossing the Southern Railroad to a point 100 feet south of and normal to the centerline of the Southern Railroad, thence in a westerly direction 100 feet south of and parallel to the centerline of the Southern Railroad approximately 200 feet, as shown on Map 16, thence in a southerly direction along the westerly property line of parcel 9 to the corner of said parcel, thence in an easterly direction along the southerly property line of said parcel 9 and parcel 10 to the southeasterly corner of said parcel 10, thence in a southerly direction following along a line 40 feet west of and parallel to the centerline of Robinson Church Road crossing to the southeasterly property line of parcel 33 and following the southerly property line of said parcel and westerly property line of parcel 34, thence in an easterly direction along the southerly property line of said parcel crossing Quays Dairy Road 1138, thence in an easterly direction along the southerly property line of parcels 32, 25, and 24, thence in a northerly direction along the easterly property line of parcel 24 to a point 40 feet south of and normal to the centerline of Flowers Road 1161, thence in a westerly direction approximately 100 feet following along a line 40 feet south of and parallel to the centerline of Flowers Road, crossing to the easterly property line of parcel 20, thence in a northerly direction to the northeasterly corner of said parcel, thence in a westerly direction approximately 248 feet to the westerly property line of parcel 19, thence in a northerly direction along the property line of said parcel to a point 100 feet south of and normal to the centerline of the Southern Railroad, thence in a westerly direction following along a line 100 feet south of and parallel to the Southern Railroad approximately 900 feet crossing to the southeasterly corner of parcel 17, block B as shown on Map 13, 40 feet west of and normal to the centerline of Johnson Avenue, thence in a northerly direction along the easterly property lines of parcels 17, 18, 19, 21, 14 crossing School Circle/Old Charlotte-Concord Highway/to the southeasterly corner of parcel 12, Block H, 40 feet west of and normal to the centerline of School Circle, thence in a northerly direction 560 feet along the easterly property line of said parcel, crossing Highway 49 to the southeasterly corner of parcel 68, thence in a northerly direction following the easterly property lines of parcel 68, 23-39, 40 feet west of and parallel to the centerline of Roberta Mill Road, thence crossing Parallel Drive to the southeasterly corner of parcel 36, block J, thence in a northerly direction along the easterly property lines of parcels 36 and 35, crossing Woodside Drive to the southeasterly corner of parcel 17, thence in a northerly direction along the easterly property line of parcel 17, 16.1, 16 for approximately 925 feet, thence in a northwesterly direction approximately 500 feet along the northerly property line of said parcel 16, thence in a southwesterly direction approximately 1,000 feet along the property line of said parcel 16, 15, and 14 to a point 182.7 feet in said parcel 14, thence in a northwesterly direction along the property lines of said parcel 14, parcel 11 and 10 approximately 450 feet to a point in said parcel 10, thence in a northeasterly direction approximately 167 feet along the property

line of said parcel to the northeasterly corner of said parcel, thence in a northwesterly direction along the northeasterly property lines of parcels 10, 9, 8, 7.1, 7, 6, 5.1, thence in a westerly direction along the northerly property lines of parcels 5 and 4, thence in a southwesterly direction along the northwesterly property lines of parcels 3.1, 3, 2.2, 2.1, 2, 2.3, 1 crossing Morehead Road to a point located 40 feet west of and normal to the centerline of Morehead Road approximately 350 feet south of the northeasterly corner of parcel 6.1, as shown on Map 15, thence in a northerly direction along the northeasterly property line of said parcel following a line 40 feet west of and parallel to the centerline of Morehead Road, thence in a westerly direction approximately 1,350 feet along the northerly property line of parcels 6.1 and 6, thence in a southerly direction along the westerly property lines of said parcel 6, 7, and 8 approximately 3,270 feet to the southwesterly corner of parcel 8, thence in an easterly direction following the southerly property line of said parcel 7 to a point 40 feet west of and normal to the centerline of Cedar Street, thence in a southerly direction approximately 150 feet along the easterly property line of parcel 30.1, as shown on Map 14, following a line 40 feet west of and parallel to Cedar Street crossing Highway 49 to a point 40 feet south of and normal to the centerline of Highway 49, thence in an easterly direction following along a line 40 feet south of and parallel to the centerline of Highway 49 approximately 1,400 feet to the northeasterly corner of parcel 12.1, being the point of BEGINNING.

"ARTICLE III. MAYOR AND TOWN COUNCIL.

"Sec. 3.1. Temporary Officers. Until the initial election provided for by Section 4.1 of this Charter, Martha H. Marks is hereby appointed Mayor, and Joe L. Sims, Walter L. Hefner, Jr., Marshall R. Queen, O. C. Towell, Larry M. Lewis, Bobby J. Sides and Boyce O. Jenkins are hereby appointed councilmen of the Town of Harrisburg, and they shall possess and may exercise the powers granted to the Mayor and Town Council until their successors are elected and qualify pursuant to this Charter.

"Sec. 3.2. Mayor and Mayor Pro Tempore. The Mayor shall be elected by and from the qualified voters of the Town voting at large, and he shall hold office for two (2) years. In the case of a vacancy in the office of Mayor, the Town Council shall by appointment fill the vacancy for the unexpired term. The Mayor shall be the official head of the Town government and shall preside at all meetings of the Town Council. When there is an equal division upon any question, or in the appointment of officers, by the Council, the Mayor shall determine the matter by his vote, and shall vote in no other case. The Mayor shall exercise such powers and perform such duties as are or may be conferred upon him by the general laws of North Carolina, by this Charter, and by the ordinances of the Town. The Town Council shall choose one of its number to act as Mayor Pro Tempore, and he shall perform the duties of the Mayor in the Mayor's absence or disability. The Mayor Pro Tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the Council.

"Sec. 3.3. Composition of Town Council. The Town Council shall consist of

seven (7) members to be elected by and from the qualified voters of the Town voting at large in the manner provided by Article IV.

"Sec. 3.4. Terms; Qualifications; Vacancies.

(a) Except for the initial terms of office, the members of the Town Council shall serve for terms of two (2) years, beginning the day and hour of the organizational meeting following their election, as established by ordinance in accordance with this Charter; provided, they shall serve until their successors are elected and qualify.

(b) No person shall be eligible to be a candidate or be elected as a member of the Town Council, or to serve in such capacity, unless he is a resident and a qualified voter of the Town.

(c) If any elected Councilman shall refuse to qualify, or if there shall be any vacancy in the office of Councilman after election and qualification, the remaining members of the Council shall by majority vote appoint some qualified person to serve for the unexpired term. Any Councilman so appointed shall have the same authority and powers as if regularly elected.

"Sec. 3.5. Compensation of Mayor and Councilmen. The Town Council may fix its own compensation and allowances, and the compensation and allowances of the Mayor, in such sums as may be just and reasonable, effective following the next regular municipal election for seats on the Town Council. The compensation and allowances of the Mayor shall not be reduced during the then current term of office.

"Sec. 3.6. Organization of Council; Oaths of Office. The Town Council shall meet and organize for the transaction of business at the first regularly scheduled meeting of the Council following each biennial election. Before entering upon their offices, the Mayor and each Councilman shall take, subscribe, and have entered upon the minutes of the Council the following oath of office: 'I, _____, do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office as _____; so help me, God.'

"Sec. 3.7. Meetings of Council.

The Town Council shall fix by ordinance suitable times for its regular meetings, which shall be as often as once monthly. Special meetings may be held on the call of the Mayor or a majority of the Councilmen, and those not joining in the call shall be notified in writing. Any business may be transacted at a special meeting that might be transacted at a regular meeting.

"Sec. 3.8. Quorum; Votes.

(a) A majority of the members elected to the Town Council shall constitute a quorum for the conduct of business, but a less number may adjourn from time to time and compel the attendance of absent members in such manner as may be prescribed by ordinance. The number required for a quorum shall not be affected by vacancies.

(b) The affirmative vote of a majority of the members of the Town Council shall be necessary to adopt any ordinance, or any resolution or motion having the effect of an ordinance.

"Sec. 3.9. Ordinances and Resolutions. The adoption, amendment, repeal, pleading, or proving of ordinances shall be in accordance with the applicable provisions of the general laws of North Carolina not inconsistent with this Charter. The ayes and noes shall be taken upon all ordinances and resolutions

and entered upon the minutes of the Council. The enacting clause of all ordinances shall be: 'BE IT ORDAINED by the Town Council of the Town of Harrisburg.' All ordinances and resolutions shall take effect upon adoption unless otherwise provided therein, or unless some provision of the General Statutes provides otherwise.

"ARTICLE IV. ELECTION PROCEDURE.

"Sec. 4.1. Regular Municipal Elections. Regular municipal elections shall be held on the Tuesday after the first Monday in November of each odd-numbered year, beginning in 1973.

"Sec. 4.2. Regulation of Elections. All municipal elections shall be conducted in accordance with the general laws of North Carolina relating to municipal elections, except as otherwise herein provided.

"ARTICLE V. TOWN ATTORNEY.

"Sec. 5.1. Appointment; Qualifications; Terms; Compensation. The Town Council may appoint a Town Attorney who shall be an attorney-at-law licensed to engage in the practice of law in North Carolina and who need not be a resident of the Town during his tenure. The Town Attorney shall serve at the pleasure of the Town Council and shall receive such compensation as the Council shall determine.

"Sec. 5.2. Duties of the Town Attorney. It shall be the duty of the Town Attorney to prosecute and defend suits for and against the Town; to advise the Mayor, Town Council, and other Town officials with respect to the affairs of the Town; to draw all legal documents relating to the affairs of the Town; to draw proposed ordinances when requested to do so; to inspect and pass upon all agreements, contracts, franchises and other instruments with which the Town may be concerned; and to perform such other duties as may be required of him by virtue of his position as Town Attorney.

"ARTICLE VI. ADMINISTRATIVE OFFICERS AND EMPLOYEES.

"Sec. 6.1. Town Clerk. The Town Council shall appoint a Town Clerk to keep a journal of the proceedings of the Council and to maintain in a safe place all records and documents pertaining to the affairs of the Town, and to perform such other duties as may be required by law or as the Council may direct.

"Sec. 6.2. Town Tax Collector. The Town Council shall appoint a Tax Collector to collect all taxes, licenses, fees and other monies belonging to the Town subject to the provisions of this Charter and the ordinances of the Town, and he shall diligently comply with and enforce all the general laws of North Carolina relating to the collection, sale, and foreclosure of taxes by municipalities.

"Sec. 6.3. Town Finance Officer. The Town Council may appoint a Town Finance Officer to perform the duties of the Finance Officer as required by the Local Government Budget and Fiscal Control Act.

"Sec. 6.4. Consolidation of Functions. The Town Council may, in its discretion, consolidate the functions of any two or more of the positions of Town Clerk, Town Tax Collector, and Town Finance Officer, or may assign the functions of any one or more of these positions to the holder or holders of any other of these positions. The Town Council may also, in its discretion, designate a single employee to perform all or any part of the functions of any of the named positions, in lieu of appointing several persons to perform the same.

"Sec. 6.5. Other Employees. The Town Council may create and fill by appointment such other positions as it deems advisable to insure the efficient

administration of the Town's affairs, and may, in its discretion, appoint a person to supervise all Town departments and may delegate to such person the power of appointment and removal of department heads and employees, other than the Town Attorney.

"ARTICLE VII. FINANCE.

"Sec. 7.1. Custody of Town Money. All monies received by the Town for and in connection with the business of the Town government shall be paid promptly into the Town depository. Such institution shall be designated by the Town Council in accordance with such regulations and subject to such requirements as to security for deposits and interest thereon as may be established by the General Statutes of North Carolina. All interest on monies belonging to the Town shall accrue to the benefit of the Town. All monies belonging to the Town shall be disbursed only in accordance with the provisions of the Local Government Budget and Fiscal Control Act.

"Sec. 7.2. Issuance of Bonds. The Town may issue bonds for the purposes and in the manner prescribed by the General Statutes of North Carolina relating to the issuance of bonds by municipalities.

"Sec. 7.3. Purchases and Contracts. Purchases of apparatus, supplies, materials, and equipment, and contracts for construction or repair work, shall be made in accordance with the General Statutes of North Carolina relating thereto.

"Sec. 7.4. Independent Audit. As soon as practicable after the close of each fiscal year, an independent audit shall be made of all books and accounts of the Town government by a certified public accountant or an accountant certified by the Local Government Commission, who shall have no personal interest directly or indirectly in the affairs of the Town or of any of its officers. The Town Council shall select the public accountant, and the results of such audit shall be made available for inspection by any interested citizen of the Town, and may be published if so ordered by the Town Council.

"Sec. 7.5. Taxation. The territory within the corporate limits, and its citizens and property, shall be subject to municipal taxes levied by the Town for the fiscal year 1973-74 and subsequent years. The Town may obtain from Cabarrus County, and the Cabarrus County Tax Supervisor shall provide upon request, a record of property within the corporate limits which was listed for taxation as of January 1, 1973.

"ARTICLE VIII. CLAIMS AGAINST THE TOWN.

"Sec. 8.1. Tort Claims. All claims or demands against the Town arising in tort shall be presented to the Town Council in writing, signed by the claimant or his attorney or agent, within ninety (90) days after such claim or demand is due or the cause of action accrues. No suit or action shall be brought on such a claim or demand within thirty (30) days or after the expiration of twelve (12) months from the time such claim or demand is presented. Unless the said claim or demand is so presented within ninety (90) days, and unless suit is brought within twelve (12) months thereafter, any action thereon shall be barred."

Sec. 5. If any provision of this act or the application thereof to any person or circumstances is held invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions or application of this act which

can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 6. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 7. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1973.

H. B. 442

CHAPTER 112

AN ACT TO PROVIDE FOR VOLUNTARY ANNEXATION BY THE TOWN OF NASHVILLE OF AREAS, TERRITORIES, OR SUBDIVISIONS NOT CONTIGUOUS TO THE MUNICIPAL BOUNDARIES OF THE TOWN OF NASHVILLE.

Whereas, Article 36 of Chapter 160 of the General Statutes of North Carolina contains no provision for the annexing of areas, territories or subdivisions not contiguous to the municipal boundaries of the Town of Nashville; and

Whereas, it would be in the interest of the public health, safety and welfare of the inhabitants of said town and would permit a more orderly growth of the municipal boundaries of said town to allow the annexation of noncontiguous areas, territories or subdivisions by petition of the property owners who desire that their property be annexed; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. That the owner or owners of any area, territory or subdivision within the boundaries of Nash County but not within the boundaries or extraterritorial jurisdiction of any other municipality, whose property is not contiguous to the municipal boundaries of the Town of Nashville, may, by petition directed to the governing body of the Town of Nashville, request that the property described in the petition be annexed and made a part of the Town of Nashville as hereinafter set out; provided any property annexed as herein provided must be located at the closest point not more than three miles from the Town of Nashville municipal limits wherein is located and situated the Town Hall.

Sec. 2. That said petition shall be directed to the Town Commissioners of the Town of Nashville and shall contain:

(1) The names of the owners of the real property for which a request to annex is made.

(2) A description of the area to be annexed by metes and bounds.

(3) The signatures of all property owners of the area, territory or subdivision requesting annexation.

In the case of annexing a subdivision under this act, the petition must be signed by all owners of property within the subdivision, provided nothing herein shall be construed to authorize the annexation of a portion of a subdivision.

Upon receipt of the petition, the Town Commissioners of the Town of Nashville shall cause the clerk of the municipality to investigate the sufficiency thereof and to certify the results of his investigation.

Upon receipt of the certification and petition, the Town Commissioners Nashville shall cause the clerk of the municipality to investigate the sufficiency thereof and to certify the results of his investigation.

shall fix dates for two public hearings on the question of annexation and shall

cause notice of the public hearings to be published twice in a newspaper having general circulation in the municipality at least ten days prior to the date of the first public hearing, and published in like manner preceding the second public hearing. The second public hearing shall be held at least 20 days after the first public hearing. At such public hearings, all residents of Nash County opposing or favoring the annexation or alleging an error in the petition shall be given an opportunity to be heard. The Town Commissioners shall then determine whether the petition meets the requirements of this act.

Upon a further finding and determination by the Town Commissioners that:

(1) The public health, safety and welfare of the inhabitants of the Town of Nashville, as well as those of the area, territory or subdivision requesting such annexation, will best be served by such annexation, and

(2) The Town of Nashville will be able to provide the same services to the annexed area, territory or subdivision in the same manner in which other areas within the municipal boundaries of said town are served, the Town Commissioners of the Town of Nashville may adopt an ordinance annexing that area described in the petition; provided the ordinance annexing the area, territory or subdivision shall be passed at each meeting of the Town Commissioners where a public hearing is held as hereinbefore provided. From and after the effective date of said ordinance, which date shall not be less than 90 days from and after the final passage of said ordinance, the area, territory or subdivision and its citizens shall be subject to all debts, laws, ordinances and regulations in force in said Town of Nashville and shall be entitled to the same benefits and privileges of other parts of said town. The newly annexed area, territory or subdivision shall be subject to town taxes for the fiscal year following the effective date of annexation.

Sec. 3. The Town Commissioners of the Town of Nashville may make said annexation contingent on such conditions as it may desire in order to insure that the area, territory or subdivision proposed to be annexed will not receive preferential treatment.

Sec. 4. The Board of Commissioners, in its discretion, may charge in any noncontiguous area, territory or subdivision annexed water or sewer rates in excess of those charged within the municipal limits wherein is located the Town Hall.

Sec. 5. Any area, territory or subdivision annexed pursuant to this act shall cease to be noncontiguous for all intents and purposes when and in the event said area shall touch the municipal limits of the Town of Nashville pursuant to the extension of the boundaries of said town pursuant to Article 36, Chapter 160 of the General Statutes of North Carolina.

Sec. 6. Any area, territory or subdivision annexed pursuant to this act shall not be included in that area of the municipal boundaries used for determining any extraterritorial jurisdiction of the Town of Nashville and further shall not be considered within the municipal boundaries for the purposes of defining an area as contiguous to the town limits within the provisions of Part 3 of Article 36 of Chapter 160 of the General Statutes of North Carolina with reference to further annexation unless and until the area, territory or subdivision annexed pursuant hereto shall, by extension of the municipal boundaries pursuant to Article 36 of Chapter 160 of the General Statutes of

North Carolina, touch and become a part of the municipal boundaries of the Town of Nashville wherein is located the Town Hall.

Sec. 7. The total area of all noncontiguous portions of the town annexed pursuant to this act shall at no time exceed ten percent (10%) of the total area of the Town of Nashville wherein is located the Town Hall.

Sec. 8. This act shall be supplemental and in addition to any other methods or procedure for annexation heretofore available or hereafter provided for the Town of Nashville.

Sec. 9. If any clause, sentence, paragraph, subsection, section or any part of this act shall for any reason be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such judgment shall not affect, impair or invalidate the remainder of this act but shall be confined in its operation to the part thereof directly involved in said judgment.

Sec. 10. All laws and clauses of laws in conflict with this act are repealed.

Sec. 11. This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1973.

H. B. 516

CHAPTER 113

AN ACT TO REPEAL CHAPTER 1164 OF THE SESSION LAWS OF 1971 RELATING TO DETERMINATION OF NEED FOR MEDICAL CARE FACILITIES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 1164 of the Session Laws of 1971, codified as Article 21 of Chapter 90 of the General Statutes in the 1971 Cumulative Supplement to Volume 2C of the General Statutes, is hereby repealed.

Sec. 2. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1973.

H. B. 583

CHAPTER 114

AN ACT TO MAKE IT UNLAWFUL TO KILL ANY RED FOX IN RUTHERFORD COUNTY OR McDOWELL COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It shall be unlawful for any person to take by gun, trap or otherwise, or to kill or destroy by any means, any red fox in Rutherford County or McDowell County; provided that this section shall not prohibit killing foxes with firearms or the trapping thereof when they are committing depredations to property or at any time when they may become a menace to the public health or safety.

Sec. 2. Violation of this act shall be a misdemeanor punishable by fine of not more than fifty dollars (\$50.00) or imprisonment for not more than 30 days.

Sec. 3. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 28th day of March, 1973.

H. B. 648

CHAPTER 115

AN ACT TO REDESIGNATE THE NORTH CAROLINA CEREBRAL PALSY HOSPITAL AS THE LENOX BAKER CEREBRAL PALSY AND CRIPPLED CHILDREN'S HOSPITAL OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. Article 14 of Chapter 131 of the General Statutes as the same appears in the 1964 Replacement Volume 3B of the General Statutes is amended by striking out the words "The North Carolina Cerebral Palsy Hospital" in line 2 of G.S. 131-127, and in line 9 of G.S. 131-130, and the words "the North Carolina Cerebral Palsy Hospital" in line 2 of G.S. 131-133, and substituting therefor in each instance the words "The Lenox Baker Cerebral Palsy and Crippled Children's Hospital of North Carolina".

Sec. 2. G.S. 143A-151 as the same appears in the 1971 Cumulative Supplement to Volume 3C of the General Statutes is amended by striking out the words "The North Carolina Cerebral Palsy Hospital" where they appear in lines 1 and 2 thereof and substituting therefor the words "The Lenox Baker Cerebral Palsy and Crippled Children's Hospital of North Carolina".

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1973.

H. B. 487

CHAPTER 116

AN ACT TO AMEND G.S. 116-143 WITH RESPECT TO DEPOSITS AND APPLICATION FEES TO BE PAID BY STUDENTS IN PUBLIC INSTITUTIONS OF HIGHER EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 116-143, as set out in the 1971 Cumulative Supplement to Volume 3A of the General Statutes, is amended by striking therefrom the second, third, and fourth unnumbered paragraphs.

Sec. 2. This act shall become effective upon its ratification and shall apply to terms beginning after May 1, 1973.

In the General Assembly read three times and ratified, this the 29th day of March, 1973.

H. B. 571

CHAPTER 117

AN ACT TO RATIFY, APPROVE, CONFIRM AND VALIDATE ALL PROCEEDINGS TAKEN BY THE BOARD OF COMMISSIONERS OF STOKES COUNTY IN CONNECTION WITH THE AUTHORIZATION OF FIVE MILLION DOLLAR SCHOOL BONDS OF SAID COUNTY AND THE CALLING AND HOLDING OF AN ELECTION THEREOF.

The General Assembly of North Carolina enacts:

Section 1. All proceedings heretofore taken by the Board of Commissioners of Stokes County in connection with the authorization of five million dollar (\$5,000,000) school bonds of said county and the calling and holding of an election upon the question of approving or disapproving the issuance of such bonds, the indebtedness to be incurred by the issuance thereof and the levy of a tax for the payment thereof, are hereby ratified, approved,

confirmed and in all respects validated, notwithstanding the provisions of G.S. 153-86 and G.S. 153-87.

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of March, 1973.

H. B. 638

CHAPTER 118

AN ACT TO AMEND G.S. 47-72, A CURATIVE STATUTE RELATING TO CORPORATION DEEDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 47-72 is amended by striking from the catch line the numbers "1963" and substituting "1973" and by striking from the first sentence the words "one thousand nine hundred and sixty-three" and substituting the words "one thousand nine hundred and seventy-three".

Sec. 2. This act shall not affect pending litigation.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of March, 1973.

S. B. 23

CHAPTER 119

AN ACT TO AMEND CHAPTER 1203, 1971 SESSION LAWS OF NORTH CAROLINA, BY ALTERING THE DATE UPON WHICH THE STATE ENVIRONMENTAL POLICY ACT TERMINATES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 1203, Section 12, 1971 Session Laws of North Carolina is hereby rewritten to read as follows: "This act shall become effective on October 1, 1971, and shall remain in effect until September 1, 1977. No act or proceeding required or authorized under the act shall be initiated after September 1, 1977, but any such act or proceeding pending on said date shall be brought to its conclusion as if this act continued in effect."

Sec. 2. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1973.

S. B. 56

CHAPTER 120

AN ACT TO AMEND G.S. 14-197 BY DELETING THE REFERENCE TO CRAVEN COUNTY CONTAINED THEREIN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-197 is hereby amended by deleting from the sixth line thereof the word "Craven".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1973.

S. B. 176

CHAPTER 121

AN ACT TO AMEND CHAPTER 302 OF THE SESSION LAWS OF 1967 AS AMENDED BY CHAPTER 12 OF THE SESSION LAWS OF 1969, BY ACCELERATING THE ELIGIBILITY OF FIREMEN FOR BENEFITS PAYABLE UNDER THE SUPPLEMENTARY PENSION FUND FOR FIREMEN IN THE TOWN OF MOUNT AIRY.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of Chapter 302 of the Session Laws of 1967 is hereby amended by rewriting the section to read as follows:

“Section 3. Any person who is a member of the Mount Airy Fire Department, salaried or volunteer, as shown by the records of the Town of Mount Airy at the time of the ratification of this Act, or any person who shall become such a member, salaried or volunteer, shall be eligible for benefits from the ‘Supplementary Pension Fund’ of the Fire Department of the Town of Mount Airy. It is further provided that this Act does not modify or alter in any way the Workmen’s Compensation Laws of the State of North Carolina.”

Sec. 2. Section 4 of Chapter 302 of the Session Laws of 1967 as amended by Section 2 of Chapter 12 of the Session Laws of 1969 is hereby amended by rewriting the section to read as follows:

“Section 4. Any member who has served 20 years as a fireman in the Mount Airy Fire Department and has attained age 55 years, shall be entitled to receive retirement benefits from the ‘Supplementary Pension Fund’; said monthly pension shall be computed on the basis of \$1.25 per month for each year of service in the department.

The Board of Trustees may, in its discretion, adjust the monthly payment of the retired fireman receiving a benefit from the ‘Supplementary Pension Fund’ when the Board determines it necessary or imperative to keep or maintain the ‘Supplementary Pension Fund’ on a good solid financial basis.”

Sec. 3. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 4. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1973.

S. B. 209

CHAPTER 122

AN ACT TO PROVIDE THAT APPEALS IN CRIMINAL CASES AFTER PLEAS OF GUILTY OR NOLO CONTENDERE SHALL BE ONLY BY WRIT OF CERTIORARI.

The General Assembly of North Carolina enacts:

Section 1. Article 18 of Chapter 15 of the General Statutes is hereby amended by adding a new section to read as follows:

“§ 15-180.2. *Appeal after plea of guilty or nolo contendere.*—Notwithstanding any other provision of law, when a defendant pleads guilty or nolo contendere to a charge pending in the Superior Court Division of the General Court of Justice, there shall be no right of appeal to the Appellate Division of such plea of guilty or nolo contendere but such defendant shall have the right to petition the Appellate Division for the issuance of a writ of certiorari to review the proceedings in the Superior Court Division of the General Court of Justice. In

the event the sentence imposed is life imprisonment the petition shall be directed to the Supreme Court; in all other cases it shall be directed to the Court of Appeals."

Petitions for writ of certiorari made under the provisions of this section shall be as provided in the Rules of Practice in the Appellate Division.

Sec. 2. The provisions of this act shall apply to all pleas of guilty or nolo contendere entered in the Superior Court Division of the General Court of Justice after the ratification of this act.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1973.

S. B. 298

CHAPTER 123

AN ACT TO TRANSFER ROAD MAINTENANCE IN STATE PARKS TO THE DEPARTMENT OF TRANSPORTATION.

The General Assembly of North Carolina enacts:

Section 1. The Department of Transportation is authorized to construct and maintain all roads leading into and located within the boundaries of all areas administered by the Division of State Parks of the Department of Natural and Economic Resources.

Sec. 2. All such roads shall be planned, designed, engineered and constructed through joint action between the Department of Transportation and the Division of State Parks of the Department of Natural and Economic Resources. This joint action shall encompass all accepted park planning and design principles. Particular concern shall be given to traffic counts and vehicle weight, minimal cutting into or through any natural and scenic areas, width of shoulders, the cutting of natural growth along roadways, and the reduction of any potential use of roads for any purpose other than by park users. All State park roads shall conform to the standards regarding width and other roadway specifications as agreed upon by the Division of State Parks of the Department of Natural and Economic Resources and the Department of Transportation.

Sec. 3. The State park road systems may be closed to the public in accordance with approved park practices that control the use of State areas so as to protect these areas from overuse and abuse and provide for functional use of the park areas, or for any other purpose considered in the best interest of the public by the Division of State Parks of the Department of Natural and Economic Resources.

Nothing herein shall be construed to include the transfer to the Department of Transportation the powers now vested in the Division of State Parks of the Department of Natural and Economic Resources relating to the patrol and safeguarding of State parks or parkway roads.

Sec. 4. This act shall become effective on and after July 1, 1973.

In the General Assembly read three times and ratified, this the 30th day of March, 1973.

S. B. 129

CHAPTER 124

AN ACT TO AMEND CHAPTER 121 OF THE 1969 SESSION LAWS CLOSING PERMANENTLY THE BEAR AND WILD TURKEY SEASON IN GATES COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 121 of the 1969 Session Laws is rewritten as follows:

"There shall be no open season for the taking of bears or wild turkeys in Gates County."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of April, 1973.

S. B. 174

CHAPTER 125

AN ACT TO AMEND G.S. 20-6 RELATIVE TO THE DEFINITION OF CHAUFFEUR.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-6 is hereby amended by adding the following sentence, relative to "chauffeur", at the end of the second paragraph thereof, to read as follows:

"Nothing in this section shall be construed to eliminate the requirement of G.S. 20-218 that any person operating a school activity bus must hold either a school bus driver's certificate or a chauffeur's license."

Sec. 2. This act shall become effective on July 1, 1973.

In the General Assembly read three times and ratified, this the 2nd day of April, 1973.

S. B. 213

CHAPTER 126

AN ACT TO AMEND G.S. 20-37.6 TO PROVIDE FOR FREE HANDICAPPED DRIVER LICENSE PLATES FOR DISABLED VETERANS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-37.6 is hereby amended by deleting the last sentence thereof and inserting in lieu thereof the following:

"As a condition to this privilege the vehicle shall display a distinguishing license plate which shall be issued for a vehicle registered to the disabled person. Such license plate shall be issued for the normal fee applicable to standard license plates, except that a person who qualifies for a license plate under this section and also qualifies as a disabled veteran under G.S. 20-81.4 shall be issued the license plate provided for herein free of charge."

Sec. 2. This act shall become effective on July 1, 1973.

In the General Assembly read three times and ratified, this the 2nd day of April, 1973.

S. B. 232

CHAPTER 127

AN ACT TO PROVIDE FOR A BUDGET OFFICER IN AVERY COUNTY,
AND TO REQUIRE DEPUTY SHERIFFS TO BE APPROVED BY THE
BOARD OF COUNTY COMMISSIONERS.

The General Assembly of North Carolina enacts:

Section 1. The County Commissioners of Avery County shall employ a budget officer to serve at the will of the Board. The budget officer shall have the duties imposed on budget officers in Chapter 159 of the General Statutes and in addition shall be responsible for general supervision of all county buildings, as directed by the County Commissioners, and assist or perform the duties of the County Accountant when the Board of Commissioners deem it necessary. The duties of the budget officer shall not be imposed upon any other county official or employee. The budget officer's salary shall be at least ten thousand dollars (\$10,000) per year.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of April, 1973.

S. B. 410

CHAPTER 128

AN ACT TO REWRITE G.S. 58-132 RELATING TO THE
ORGANIZATION OF REAL ESTATE TITLE INSURANCE
COMPANIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-132 is hereby rewritten to read as follows:

“§ 58-132. *Purpose of organization, formation.*—(a) Companies may be formed in the manner provided in this Article for the purpose of furnishing information in relation to titles to real estate and of insuring owners and others interested therein against loss by reason of encumbrances and defective title; provided, however, that no such information shall be so furnished nor shall such insurance be so issued as to North Carolina real property unless and until the title insurance company has caused to be conducted a reasonable examination of the title, has obtained the opinion thereof of an attorney, not an employee of the company, licensed to practice law in North Carolina, and has caused to be made a determination of insurability of title in accordance with sound underwriting practices for title insurance companies.

(b) Such companies shall be subject to:

(1) The same capital, surplus and investment requirements as govern the formation and operation of domestic stock casualty companies.

(2) The same deposit requirements governing the operation of other state or foreign casualty companies in this State; and

(3) Article 17A of the Insurance Law of this State and G.S. 58-39. Such companies shall not be subject to the Insurance Law of this State except as otherwise provided in this Article.

(c) This Article shall not be interpreted so as to imply the repeal or amendment of any of the provisions of Chapter 84 of the General Statutes of

North Carolina nor of any other provisions of common law or statutory law governing the practice of law.”

Sec. 2. This act shall become effective on October 1, 1973.

In the General Assembly read three times and ratified, this the 3rd day of April, 1973.

H. B. 123

CHAPTER 129

AN ACT TO INCORPORATE THE TOWN OF PATTERSON SPRINGS, IN CLEVELAND COUNTY, SUBJECT TO AN ELECTION.

The General Assembly of North Carolina enacts:

Section 1. The Board of Elections of Cleveland County shall conduct a special election on Tuesday, May 15, 1973, for the purpose of submitting to the qualified voters of the area hereinafter described as the proposed corporate limits of the Town of Patterson Springs the question whether or not such area shall be incorporated as a municipal corporation known as the Town of Patterson Springs, and to elect the members of the governing body if said area is incorporated. The election shall be nonpartisan. On such day, the polls shall be open from 6:30 a.m. until 6:30 p.m. The said Board of Elections for Cleveland County in conducting the election required to be held herein shall follow the procedure as outlined in this act and the General Statutes of North Carolina relating to municipal elections where not in conflict with this act.

Sec. 2. The Cleveland County Board of Elections shall, not later than Monday, April 2, 1973, appoint a registrar and two judges of election, and designate a polling place for the special election.

Sec. 3. Not later than Friday, April 6, 1973, the Cleveland County Board of Elections shall cause to be posted at Randolph Biggers Store, at Crowders Supermarket, and at such other public places as the Board may choose, a notice stating the time, the polling place, and the purpose of the special election; the names of the registrar and judges of election; and that candidates for election of the Town Board of Commissioners must file with the Board notice of candidacy not earlier than Friday, March 23, 1973, and not later than 5:00 p.m. on Friday, April 20, 1973. The Board of Elections may, in its discretion, also cause such notice to be published one or more times in a newspaper having general circulation in the Patterson Springs community.

Sec. 4. Any qualified voter who would offer himself as a candidate for Commissioner in such election shall file with the Chairman or Clerk of the Board of Elections of Cleveland County a written statement giving notice of his candidacy. Such notice shall be filed not earlier than Friday, March 23, 1973, and not later than 5:00 p.m. on Friday, April 20, 1973, and shall be substantially in the following form:

I, _____, do hereby
give notice that I am a candidate for election to the office of Commissioner,
Town of Patterson Springs, to be voted on at the election to be held on Tuesday,
May 15, 1973, and I hereby request that my name be placed on the official
ballot for such office. I certify that I am a resident and qualified voter of the
Town of Patterson Springs, residing at _____,

(Signature)

(Date)

Witness: _____”

Sec. 5. In the special election, those voters who favor the incorporation of the Town of Patterson Springs as provided in this act shall vote a ballot upon which shall be printed the words: "FOR Incorporation of Town of Patterson Springs", and those voters who are opposed to the incorporation of the Town of Patterson Springs as provided in this act shall vote a ballot upon which shall be printed the words: "AGAINST Incorporation of Town of Patterson Springs".

Sec. 6. Also in the special election, each qualified registered voter shall be entitled to vote for five (5) candidates for Commissioner upon a ballot on which shall be listed, in alphabetical order, the names of all persons who filed notice of candidacy with the Board of Elections during the period hereinabove established.

Sec. 7. If a majority of the votes cast in the special election shall be cast "AGAINST Incorporation of Town of Patterson Springs", then Sections 10 through 13 of this act shall have no force or effect.

Sec. 8. If a majority of the votes cast in the special election shall be cast "FOR Incorporation of Town of Patterson Springs", then Sections 10 through 13 of this act shall be in full force and effect from and after May 15, 1973.

Sec. 9. In the special election, the three (3) candidates for Commissioner who receive the largest numbers of votes cast for Commissioner shall be declared elected for terms of four (4) years beginning immediately but computed from November 6, 1973, or until their successors are elected and qualified, and the two (2) candidates for commissioner who receive the next largest numbers of votes cast for Commissioner shall be declared elected for terms of two (2) years beginning immediately but computed from November 6, 1973, or until their successors are elected and qualified. In case of a tie between opposing candidates, the Board of Elections shall determine the result by lot. It is the intent of this act that the Commissioners elected under this act shall serve until the Regular Municipal Elections to be held in 1975 or 1977 as appropriate and that the Town of Patterson Springs shall have no further municipal elections for municipal officials during 1973.

Sec. 10. The Chairman of the Board of Elections shall notify the persons elected as Commissioners and shall designate some qualified officer to administer to them the oath of office, which shall be done as soon as practicable following their election.

Sec. 11. The following provisions of law shall constitute the Charter of the Town of Patterson Springs, in Cleveland County:

"THE CHARTER OF THE TOWN OF PATTERSON SPRINGS

"ARTICLE I. INCORPORATION AND CORPORATE POWERS

"Section 1.1. *Incorporation and General Powers.* The inhabitants of the area described in Section 2.1 of this charter shall be and constitute a body politic and corporate under the name of the 'Town of Patterson Springs', and shall be vested with all property which may be acquired by the Town, and all rights herein delegated to it; shall have perpetual succession; may have a common seal and alter and renew the same at pleasure; may sue and be sued; may contract; may acquire and hold all such property, real and personal, as may be devised, bequeathed, sold or in any manner conveyed or dedicated to it, or otherwise acquired by it, and may from time to time hold or invest, sell, or dispose of the same; and shall have and may exercise in conformity with this charter all

municipal powers, functions, rights, privileges, and immunities of every name and nature.

"Sec. 1.2. *Exercise of Powers.* All powers, functions, rights, privileges, and immunities of the Town, its officers, agencies, or employees, shall be carried into execution as provided by this charter, or, if this charter makes no provision, as provided by ordinance or resolution of the Board of Commissioners and as provided by the general laws of North Carolina pertaining to municipal corporations.

"Sec. 1.3. *Enumerated Powers Not Exclusive.* The enumeration of particular powers by this charter shall not be held or deemed to be exclusive but, in addition to the powers enumerated herein or implied hereby, or those appropriate to the exercise of such powers, the Town of Patterson Springs shall have and may exercise all powers which are granted to municipal corporations by the general laws of North Carolina and all powers which, under the Constitution of North Carolina, it would be competent for this charter specifically to enumerate.

"ARTICLE II. CORPORATE BOUNDARIES

"Sec. 2.1. *Corporate Boundaries.* (a) For the purposes of conducting the special election on the question of incorporation and for the election of Town Commissioners and for all other purposes, the corporate boundaries of the Town of Patterson Springs shall be as follows until changed in accordance with law: All of the area lying and being within a circle with a radius of 1/2 mile, with the center of said circle being at a point in the center of North Carolina Highway #226 where it intersects with the center of North Carolina Highway #180.

(b) As soon as practicable following their election, the Board of Commissioners of the Town of Patterson Springs shall cause to be made an accurate survey of the corporate boundaries and shall cause to be made an accurate map based upon such survey. After such survey and map is completed, and after the Board of Commissioners of the Town of Patterson Springs finds and declares upon its minutes that the boundaries shown on such map do not vary from the description in subsection (a) of this section, they shall cause accurate copies of such map to be filed in the office of the register of deeds of Cleveland County and in the office of the Secretary of State of North Carolina. From and after the time a copy of such map is filed in the office of the register of deeds of Cleveland County, the corporate boundaries as shown thereon shall be the corporate boundaries of the Town of Patterson Springs until changed in accordance with law. An accurate copy of such map shall also be maintained in the Town offices.

"ARTICLE III. MAYOR AND BOARD OF COMMISSIONERS

"Sec. 3.1. *Mayor and Mayor Pro Tempore.* The Board of Commissioners at its first meeting shall choose one of its number to be the Mayor of the Town of Patterson Springs. The Mayor shall be the official head of the Town government and shall preside at all meetings of the Board of Commissioners. When there is an equal division upon any question, or in the appointment of officers, by the Board, the Mayor shall determine the matter by his vote, and he shall vote in no other case. The Mayor shall exercise such powers and perform such duties as are or may be conferred upon him by the general laws of North Carolina, by this Charter, and by the ordinances of the Town. The Board of Commissioners shall also choose one of its number to act as Mayor Pro Tempore, and he shall perform the duties of the Mayor in the Mayor's absence

or disability. The Mayor and the Mayor Pro Tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the Board of Commissioners.

"Sec. 3.2. *Composition of Board of Commissioners.* The Board of Commissioners shall consist of five (5) members to be elected by and from the qualified voters of the Town voting at large in the manner provided by Article IV.

"Sec. 3.3. *Terms; Qualifications; Vacancies.* (a) Except for the initial terms of office hereinbefore specified, the Mayor and the members of the Board of Commissioners shall serve for terms of four (4) years, beginning the day and hour of the organizational meeting following their election, as established by ordinance in accordance with this Charter; provided, they shall serve until their successors are elected and qualify.

(b) No person shall be eligible to be a candidate or be elected as a member of the Board of Commissioners, or to serve in such capacity, unless he is a resident and a qualified voter of the Town.

(c) If any elected Commissioner shall refuse to qualify, or if there shall be any vacancy in the office of Commissioner after election and qualification, the remaining members of the Board shall by majority vote appoint some qualified person to serve for the unexpired term. Any Commissioner so appointed shall have the authority and powers as if regularly elected. A vacancy in the office of Mayor shall be filled by the Board of Commissioners.

"Sec. 3.4. *Compensation of Mayor and Commissioners.* The Mayor and the other members of the Board of Commissioners shall receive for their services such salary as the Board of Commissioners shall determine. After the initial salaries have been established, such salaries may be increased or decreased as the Board of Commissioners sees fit, but no increase or decrease shall be made to take effect as to any Commissioner during the respective term of office which he is serving at the time the increase or decrease is voted.

"Sec. 3.5. *Organization of Board; Oaths of Office.* The Board of Commissioners shall meet and organize for the transaction of business at a time established by ordinance, following each biennial election. Before entering upon their offices, each Commissioner shall take, subscribe, and have entered upon the minutes of the Board the oath of office required by the Constitution of North Carolina.

"Sec. 3.6. *Meetings of Board.* The Board of Commissioners shall fix suitable times for its regular meetings, which shall be as often as once monthly. Special meetings may be held on the call of the Mayor or a majority of the Commissioners, and those not joining in the call shall be notified in writing. Any business may be transacted at a special meeting that might be transacted at a regular meeting.

"Sec. 3.7. *Quorum; Votes.* (a) A majority of the members elected to the Board of Commissioners shall constitute a quorum for the conduct of business, but a less number may adjourn from time to time and compel the attendance of absent members in such manner as may be prescribed by ordinance.

(b) The affirmative vote of a majority of the members of the Board of Commissioners shall be necessary to adopt any ordinance, or any resolution or motion having the effect of an ordinance. All other matters to be voted upon shall be decided by a majority vote of the members present and voting.

"Sec. 3.8. *Ordinances and Resolutions.* The adoption, amendment, repeal,

pleading, or proving of ordinances shall be in accordance with the applicable provisions of the general laws of North Carolina not inconsistent with this charter. The ayes and noes shall be taken upon all ordinances and resolutions and entered upon the minutes of the Board. The enacting clause of all ordinances shall be: 'Be it ordained by the Board of Commissioners of the Town of Patterson Springs.' All ordinances and resolutions shall take effect upon adoption unless otherwise provided therein, or unless some provision of the General Statutes provides otherwise.

"ARTICLE IV. ELECTION PROCEDURE

"Sec. 4.1. *Regular Municipal Elections.* Following the initial election hereinbefore provided for, regular municipal elections shall be held on the Tuesday after the first Monday in November of each odd-numbered year, beginning in 1975. In the regular 1975 election and quadrennially thereafter, there shall be elected by the qualified voters of the Town voting at large two (2) Commissioners to serve for terms of four (4) years, or until their successors are elected and qualify. In the regular 1977 election and quadrennially thereafter, there shall be elected by the qualified voters of the Town voting at large three (3) Commissioners to serve for terms of four (4) years, or until their successors are elected and qualify.

"Sec. 4.2. *Voting.* In the regular 1975 election and quadrennially thereafter, each voter shall be entitled to vote for two (2) candidates for Commissioner, and the two candidates for Commissioner who receive the largest number of votes cast for Commissioner shall be declared elected. In the regular 1977 election and quadrennially thereafter, each voter shall be entitled to vote for three (3) candidates for Commissioner, and the three (3) candidates who receive the largest numbers of votes cast for Commissioner shall be declared elected. In case of a tie between opposing candidates, the election officials shall determine the result by lot.

"ARTICLE V. TOWN ATTORNEY

"Sec. 5.1. *Appointment; Qualifications; Term; Compensation.* The Board of Commissioners may appoint a Town Attorney who shall be an attorney at law licensed to engage in the practice of law in North Carolina and who need not be a resident of the Town during his tenure. The Town Attorney shall serve at the pleasure of the Board of Commissioners and shall receive such compensation as the Board shall determine.

"Sec. 5.2. *Duties of Town Attorney.* It shall be the duty of the Town Attorney to prosecute and defend suits for and against the Town; to advise the Mayor, Board of Commissioners, and other Town officials with respect to the affairs of the Town; to draw all legal documents relating to the affairs of the Town; to draw proposed ordinances when requested to do so; to inspect and pass upon all agreements, contracts, franchises and other instruments with which the Town may be concerned; to attend all meetings of the Board of Commissioners when requested by the Board; and to perform such other duties as may be required of him by virtue of his position as Town Attorney.

"ARTICLE VI. FINANCE

"Sec. 6.1. *Taxation.* The Territory within the corporate limits, and its citizens and property, shall be subject to municipal taxes levied by the Town for the fiscal year 1973-1974 and subsequent years. The Town may obtain from Cleveland County, and the County shall provide upon request, a list of the taxable property within the corporate limits of the Town of Patterson Springs,

of the owners of such property, and of the valuation for tax purposes of such property.

“ARTICLE VII. CLAIMS AGAINST THE TOWN

“Sec. 7.1. *Title to Properties Used for Certain Purposes.* In the absence of any contracts with the Town in relation to the lands used or occupied by it for the purposes of streets, sidewalks, alleys, or other public works of the Town signed by the owner thereof or his agent, it shall be conclusively presumed that said land has been granted to the Town by the owner or owners, and the Town shall have good right and title thereto and shall have, hold, and enjoy the same. Unless the owner or owners of said land, or those claiming under them, shall make claim or demand in writing addressed to the Board of Commissioners within two (2) years following the date when such land was taken, he or they shall be forever barred from recovering such land or having any compensation therefor; provided, nothing herein shall affect the rights of persons under disabilities until two (2) years following removal thereof.

“Sec. 7.2. *Tort Claims.* All claims or demands against the Town arising in tort shall be presented to the Board of Commissioners in writing, signed by the claimant or his attorney or agent, within ninety (90) days after such claim or demand is due or the cause of action accrues. No suit or action shall be brought on such a claim or demand within thirty (30) days or after the expiration of twelve (12) months from the time such claim or demand is presented. Unless the said claim or demand is so presented within ninety (90) days, and unless suit is brought within twelve (12) months thereafter, any action thereon shall be barred.

“ARTICLE VIII. GENERAL PROVISIONS

“Sec. 8.1. *Health and Well-Being of Citizens.* The Board of Commissioners of the Town shall have the power and the right to adopt such rules and regulations for the effective policing of the Town as they may deem necessary, and to take all necessary steps for the proper enforcement of the same; and the Board of Commissioners shall have the right and the power to adopt such rules and regulations for the preservation and protection of the health and well-being of the Town and its citizens as they may deem necessary, and to take all necessary steps for the proper enforcement of the same.

“Sec. 8.2. *North Carolina General Statutes.* The Town shall have the benefit of and be subject to all the provisions of Chapter 160A of the General Statutes of North Carolina and all laws amendatory thereof, and shall have the benefit of and be subject to all the provisions of all general laws regulating towns and cities, except insofar as said Chapter 160A and the aforesaid laws are modified and changed by the provisions of this Town Charter.”

Sec. 12. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed to the extent of such conflict.

Sec. 13. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1973.

H. B. 469

CHAPTER 130

AN ACT TO AMEND SECTION 6 OF CHAPTER 60 OF THE 1953 SESSION LAWS RELATING TO THE INCORPORATION OF OXFORD ORPHANAGE.

The General Assembly of North Carolina enacts:

Section 1. Section 6 of Chapter 60 of the 1953 Session Laws of the State of North Carolina is amended by rewriting Section 6 to read as follows:

“Sec. 6. That the business of the corporation, which is purely a charitable and educational one, shall be the continuance of the present institution known as ‘Oxford Orphanage’ without any change of purpose or identity, for the maintenance and support of an orphanage or a home for indigent children of tender years, to be selected and received as the directors, hereinafter provided for, shall determine but without discrimination as to race, color, national origin, sex, religious denomination or locality; and the support and education of such children, including their religious, moral, mental and physical training, and their instruction in the useful arts.”

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1973.

H. B. 686

CHAPTER 131

AN ACT TO AUTHORIZE THE GOVERNING BOARD OF THE TOWN OF LAKE WACCAMAW TO EXERCISE ALL OF THE POWERS GRANTED BY CHAPTER 160A, ARTICLE 19 OF THE GENERAL STATUTES WITHIN 2,000 FEET INLAND AROUND THE BOUNDARIES OF LAKE WACCAMAW.

The General Assembly of North Carolina enacts:

Section 1. The boundaries of the territory within which the Governing Board of the Town of Lake Waccamaw may exercise the powers set forth in Article 19 of Chapter 160A of the General Statutes shall include the territory described as follows:

“All lands within one mile of the town limits and those lands within 2,000 feet of the high water mark around the entire body of Lake Waccamaw.”

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1973.

H. B. 51

CHAPTER 132

AN ACT TO REDUCE THE MINIMUM NUMBER OF MAGISTRATES IN CERTAIN COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-133 is amended, in the table, after Forsyth County, under the column representing minimum number of magistrates, by deleting the number "10" and inserting in lieu thereof the number "3".

Sec. 2. This act shall become effective January 1, 1974.

In the General Assembly read three times and ratified, this the 4th day of April, 1973.

H. B. 365

CHAPTER 133

AN ACT TO REWRITE G.S. 39-13.4 TO AUTHORIZE RECORDING OF A MEMORANDUM OF SEPARATION AGREEMENT OR A DEED OF SEPARATION FOR CONVEYANCES BY HUSBAND OR WIFE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 39-13.4 is rewritten in its entirety to read as follows:

"Conveyances by husband or wife under deed of separation. Any conveyance of real property, or any interest therein, by the husband or wife who have previously executed a valid and lawful deed of separation which authorizes said husband or wife to convey real property or any interest therein without the consent and joinder of the other and which deed of separation or a memorandum of the deed of separation setting forth such authorization is recorded in the county where the land lies, shall be valid to pass such title as the husband or wife may have to his or her grantee, unless an instrument in writing canceling the deed of separation or memorandum thereof and properly executed and acknowledged by said husband and wife is recorded in the office of said register of deeds. The instrument which is registered under this section to authorize the conveyance of an interest in real property or the cancellation of the deed of separation or memorandum thereof shall comply with G.S. 52-6 with respect to a certificate of private examination of the wife."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1973.

H. B. 908

CHAPTER 134

AN ACT TO AMEND CHAPTER 755 OF THE 1969 SESSION LAWS, RELATING TO APPROPRIATIONS FOR CAPITAL IMPROVEMENTS, SO AS TO AUTHORIZE AN INCREASE IN SELF-LIQUIDATING FUNDS FOR AN ATHLETIC FIELD AT NORTH CAROLINA CENTRAL UNIVERSITY.

The General Assembly of North Carolina enacts:

Section 1. Section 4 of Chapter 755 of the 1969 Session Laws is amended by striking under the heading "V. Education, North Carolina Central

University, 5. Athletic Field" the figures "\$800,000", which appear twice therein, and substituting in lieu thereof the figures "\$985,000".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1973.

S. B. 252

CHAPTER 135

AN ACT TO AMEND G.S. 20-9 TO REQUIRE THE SURRENDER OF OUT-OF-STATE DRIVER LICENSES AS A PREREQUISITE TO RECEIVING A NORTH CAROLINA LICENSE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-9 is hereby amended by adding a new subsection (i) thereto, to read as follows:

"(i) The Department shall not issue an operator's or chauffeur's license to an applicant who is the holder of any license to drive issued by another state, district or territory of the United States and currently in force, unless the applicant surrenders such license or licenses; provided, this section shall not apply to non-resident military personnel or members of their household."

Sec. 2. This act shall become effective on July 1, 1973.

In the General Assembly read three times and ratified, this the 5th day of April, 1973.

H. B. 82

CHAPTER 136

AN ACT TO DESIGNATE THE EMERALD THE PRECIOUS STONE OF THE STATE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 145 of the North Carolina General Statutes is amended by adding the following section thereto:

"§ 145-8. The Emerald is hereby adopted as the official State precious stone of the State of North Carolina."

Sec. 2. This act shall become effective upon the opening of the National Gem Show in Charlotte June 28, 1973.

In the General Assembly read three times and ratified, this the 5th day of April, 1973.

H. B. 107

CHAPTER 137

AN ACT TO REWRITE G.S. 130-13 RELATING TO PROVISION OF PUBLIC HEALTH SERVICES AND TO COUNTY HEALTH DEPARTMENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-13 is hereby rewritten to read as follows:

"§ 130-13. *Provision of public health services.*—(a) Each county shall make public health services available to its residents. Counties may furnish services by operating a county health department, by contracting with the State for provision of services or by operating, jointly with other counties, a district health department.

(b) Where a county furnishes public health services by operating a county

health department, the policy-making body for the county health department shall be a county board of health composed of nine members appointed by the board of county commissioners, upon consultation with the Local Health Director.

(c) The county board of health shall include: one licensed physician, one licensed dentist, one licensed pharmacist, one county commissioner, and five persons appointed from the general public.

(d) The composition of the local board shall reasonably reflect the population makeup of the entire county.

(e) Members of county boards of health shall serve three-year terms, but no board member may serve more than three consecutive three-year terms.

(f) The county board of health shall elect its own chairman annually. The county health director shall serve as secretary to the county board of health. A majority of the members shall constitute a quorum.

(g) Employees of a county health department shall be deemed county employees."

Sec. 2. The terms of all members of a county board of health holding office on the date of the ratification of this act shall expire on the same date they would have had this act not been passed. Upon expiration of these terms, their successors shall be appointed to terms of three years and shall serve until their successors have been appointed and qualified. At the expiration of the term of the board member now holding office whose term first expires, the board of county commissioners shall appoint his successor and a sufficient number of persons to bring the membership of the board to nine. The county commissioners may appoint persons to fill vacancies from time to time.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of April, 1973.

H. B. 477

CHAPTER 138

AN ACT TO AMEND G.S. 90-65 RELATING TO THE AUTHORITY OF THE BOARD OF PHARMACY TO SUSPEND, REVOKE, OR REFUSE TO RENEW A PHARMACIST LICENSE OR DRUG STORE PERMIT.

The General Assembly of North Carolina enacts:

Section 1. Subsection (4) of G.S. 90-65, as the same appears in the 1971 Cumulative Supplement to Volume 2C of the General Statutes of North Carolina is hereby amended by changing the semicolon at the end of said subsection (4) to a comma and adding thereafter the following phrase:

"or which defrauds the State or any person, firm or corporation;".

Sec 2. This act shall be in full force and effect on July 1, 1973.

In the General Assembly read three times and ratified, this the 5th day of April, 1973.

H. B. 602

CHAPTER 139

AN ACT TO ALLOW 30 DAYS IN WHICH TO REPORT AN ABORTION
UNDER G.S. 14-45.1 TO THE STATE BOARD OF HEALTH.

The General Assembly of North Carolina enacts:

Section 1. 14-45.1 is hereby amended by rewriting the last paragraph as follows:

"All abortions performed under the provisions of this section shall be reported to the State Board of Health within 30 days of the date of discharge. The report shall be for statistical purposes only and the confidentiality of the patient relationship shall be protected. The report shall be submitted on a form provided by the State Board of Health. The administrator of the hospital in which an abortion is performed shall be responsible for insuring that a report is submitted in accordance with this paragraph. The requirements of G.S. 130-43 are waived for abortions as provided in this section."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of April, 1973.

S. B. 152

CHAPTER 140

AN ACT TO PROVIDE THE DIVISION OF COMMERCIAL AND SPORTS
FISHERIES, DEPARTMENT OF NATURAL AND ECONOMIC
RESOURCES, WITH PARTIAL NET PROCEEDS OF GASOLINE
TAXES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 105 of the General Statutes of North Carolina is hereby amended by adding immediately following G.S. 105-446.3 a new section to be designated as G.S. 105-446.4 to read as follows:

"§ 105-446.4. *Department of Natural and Economic Resources Entitled to Partial Net Proceeds of Gasoline Taxes.*—(a) The North Carolina Department of Natural and Economic Resources shall receive one-eighth of one percent (1/8 of 1%) of the net proceeds of the taxes on motor fuels levied under § 105-434 and the same shall be paid in accordance with the accounting periods as set forth under § 105-446(1). As used in this section "net proceeds" shall mean the entire tax collected less one cent (1¢) per gallon nonrebatable tax required to be segregated by Chapter 1250 of the Session Laws of 1949, as amended by Chapter 46 of the Session Laws of 1965.

(b) Payments made to the North Carolina Department of Natural and Economic Resources under the provisions of this section shall be earmarked for the Division of Commercial and Sports Fisheries for the exclusive purpose of establishing and maintaining artificial reefs, and for the marking of said structures."

Sec. 2. The provisions of this act shall become effective on July 1, 1973, and shall expire on June 30, 1979.

In the General Assembly read three times and ratified, this the 9th day of April, 1973.

H. B. 29

CHAPTER 141

AN ACT TO AMEND THE MACHINERY ACT TO ALLOW BOARDS OF COUNTY COMMISSIONERS UPON THE SHOWING OF GOOD CAUSE BY ANY TAXPAYER TO EXTEND THE PERIOD FOR LISTING REAL AND PERSONAL PROPERTY FOR A LENGTH OF TIME ENDING NO LATER THAN MARCH 31ST OR THE FIRST MEETING OF THE COUNTY BOARD OF EQUALIZATION AND REVIEW, WHICHEVER BE EARLIER.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-307 is hereby amended by adding a new paragraph between the two existing paragraphs to read as follows:

"The board of county commissioners upon written request filed with the county tax supervisor at least seven days prior to the expiration of the regular listing period and upon the showing of good cause by any taxpayer shall grant individual extensions of time for listing real and personal property for a length of time not to extend beyond March 3."

Sec. 2. This act shall become effective January 1, 1974.

In the General Assembly read three times and ratified, this the 9th day of April, 1973.

H. B. 53

CHAPTER 142

AN ACT TO EXEMPT FROM NORTH CAROLINA PREMIUM TAX PREMIUMS RECEIVED BY INSURERS IN CONNECTION WITH CERTAIN PLANS QUALIFIED UNDER THE INTERNAL REVENUE CODE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-228.5 is hereby amended by adding to this section by inserting in between the second and third paragraphs thereof the following paragraph:

"Every insurer, in computing the premium tax, shall exclude from the gross amount of premiums all premiums received on or after July 1, 1973, from policies or contracts, issued in connection with the funding of a pension, annuity or profit-sharing plan, qualified or exempt under Section 401, 403, 404 or 501 of the United States Internal Revenue Code as now or hereafter amended and the gross amount of all such premiums shall be exempt from the tax levied by this section."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of April, 1973.

H. B. 106

CHAPTER 143

AN ACT TO REWRITE G.S. 130-14 RELATING TO DISTRICT HEALTH DEPARTMENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-14 is hereby rewritten to read as follows:

“§ 130-14. *District health departments.*—(a) Under rules and regulations established by the State Board of Health, district health departments including more than one county may be formed in lieu of county health departments upon agreement of the boards of county commissioners and local boards of health having jurisdiction over each of the counties involved.

(b) The State Board of Health may request the health department of a county to become part of a district health department composed of several counties if, in the opinion of the board, the public interest and the delivery of public health services to all the people of the new district would be enhanced thereby.

(c) Where counties offer public health services through a district health department, the policy-making body shall be a district board of health composed of 15 members. The board of county commissioners of each county in the district shall appoint one county commissioner to the board. The appointed commissioners shall, upon consultation with the Local Health Director, appoint the other members of the board in such a manner as to provide for equitable district-wide representation.

(1) In addition to the county commissioners appointed, the district board of health shall include: one licensed physician; one licensed dentist; one licensed pharmacist; and enough other persons appointed from the general public to bring the number to 15.

(2) The composition of the district board of health shall reasonably reflect the population makeup of the entire district.

(d) Members of district boards of health shall serve terms of three years but no board member may serve more than three consecutive three-year terms on the board.

(e) The district board of health shall elect its own chairman annually. The district health director shall act as secretary to the board. A majority of the members shall constitute a quorum.

(f) Upon the formation of a new district health department, the boards of county commissioners of all counties in the district shall appoint one commissioner from each county to the district board. These appointees shall then appoint a sufficient number of persons to bring the membership of the board to 15. The appointments shall be staggered thusly: two persons shall be appointed for one year, two for two years, two for three years and the remainder for terms of four years. Thereafter all appointments shall be for three years.”

Sec. 2. *Terms and transition.* The terms of all members of district boards of health holding office on the date of the ratification of this act shall expire on the same date as they would have had this act not been passed. Upon expiration of these terms their successors shall be appointed to terms of three years and until their successors have been appointed and qualified. At the expiration of the term of the board member now holding office whose term first expires, the county commissioners of all the counties in the district shall appoint his successor and a sufficient number of persons to bring the membership of the board up to 15. These appointments shall be made in the following manner:

first, one county commissioner from each county in the district shall be appointed to terms of two years each. Such additional persons as are necessary to bring the board membership to 15 shall be appointed to terms of three years each.

Sec. 3. Notwithstanding any provision of G.S. 130-14.1, no district health department established under G.S. 130-14(b) shall be dissolved without prior written notification to the State Board of Health.

Sec. 4. Withholding of funds prohibited. No funds otherwise available for any health department of a county shall be withheld or diminished because of failure or refusal of such county health department to join or remain in a district health department.

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of April, 1973.

H. B. 295

CHAPTER 144

AN ACT TO REWRITE G.S. 36-32 TO PERMIT ANY TRUSTEE TO HOLD STOCKS OR OTHER SECURITIES IN THE NAME OF A NOMINEE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 36-32 is hereby rewritten to read as follows:

“§ 36-32. *Trustees holding stock or other securities in name of nominee.*—A trustee may hold shares of stock or other securities in the name of a nominee without mention of the trust in the instrument representing stock or other securities or in registration records of the issuer thereof: Provided, that (a) the trust records and all reports or accounts rendered by the trustee clearly show the ownership of the stock or other securities by the trustee and the facts regarding its holdings, and (b) the nominee shall not have possession of the stock or other securities or access thereto except under the immediate supervision of the trustee. The trustee shall be personally liable for any loss of the trust resulting from any act of such nominee in connection with stock or other securities so held.”

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall be effective on and after October 1, 1973.

In the General Assembly read three times and ratified, this the 9th day of April, 1973.

S. B. 432

CHAPTER 145

AN ACT TO AMEND ARTICLE 12 OF CHAPTER 33 OF THE GENERAL STATUTES (GIFTS OF SECURITIES AND MONEY TO MINORS) SO AS TO PROVIDE THAT A BANK SHALL INCLUDE STATE CHARTERED AND FEDERALLY CHARTERED CREDIT UNIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 33-68(2) is amended by striking the period at the end thereof and adding “, and State and federally chartered credit unions whose

deposits are insured by either Federal Share Insurance or the North Carolina Savings Guaranty Corporation.”

Sec. 2. This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of April, 1973.

S. B. 437

CHAPTER 146**AN ACT TO PROVIDE FOR THE ELECTION OF THE AVERY COUNTY BOARD OF EDUCATION.**

The General Assembly of North Carolina enacts:

Section 1. The Avery County Board of Education shall consist of five members who shall serve staggered terms of four years. The election shall be nonpartisan and no primary election shall be held.

Sec. 2. Beginning in 1974, and biennially thereafter, the election for members of the Avery County Board of Education shall be held at the same time as the regular primary for county officers. The candidates equal to the number of members to be elected who receive the highest number of votes shall be elected. Candidates shall file notice of candidacy as required by general law, and except as provided herein, the election shall be held and conducted in accordance with general law regulating elections for county officers.

Sec. 3. Those persons elected in 1974, and thereafter, shall qualify as provided in G.S. 115-22. Vacancies occurring on the Board of Education for any cause shall be filled for the unexpired term by a qualified voter appointed by the remaining members of the Board of Education.

Sec. 4. Those members of the Board of Education who are elected in 1973, pursuant to Chapter 1181, Session Laws of 1969, shall serve until the first Monday in December 1976. Their successors to be elected in 1976, and thereafter, shall serve terms of four years commencing on the first Monday in December following their election.

Sec. 5. The terms of the present members of the Avery County Board of Education whose terms are scheduled to expire in 1975, pursuant to Chapter 1181, Session Laws of 1969, are hereby reduced to expire on the first Monday in December 1974. Their successors to be elected in 1974, and thereafter, shall serve for terms of four years commencing on the first Monday in December following their election.

Sec. 6. Except for the purpose of the election to be held on the last Tuesday in March 1973, Chapter 1181, Session Laws of 1969, is hereby repealed. All laws and clauses of laws in conflict with this act are hereby repealed to the extent of such conflict.

Sec. 7. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of April, 1973.

S. B. 466

CHAPTER 147

AN ACT TO VALIDATE THE ELECTION OF THE MEMBERS OF THE
MONROE CITY BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. The election of Lane Welsh Drew, Robert L. Huffman, Albert S. Orr, Jr., and G. Dick Pierce to the Monroe City Board of Education at a non-partisan election on February 17, 1973, is hereby ratified and confirmed.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of April, 1973.

H. B. 41

CHAPTER 148

AN ACT TO AMEND CHAPTER 7A TO REVISE PROCEDURES FOR
THE REMOVAL OF SOLICITORS, ASSISTANT SOLICITORS, CLERKS
OF SUPERIOR COURT, MAGISTRATES, AND PUBLIC DEFENDERS.

The General Assembly of North Carolina enacts:

Section 1. General Statute 7A-66 is rewritten to read as follows:

"G.S. 7A-66. *Removal of solicitors.* The following are grounds for suspension of a solicitor or for his removal from office:

- (1) mental or physical incapacity interfering with the performance of his duties which is, or is likely to become, permanent;
- (2) willful misconduct in office;
- (3) willful and persistent failure to perform his duties;
- (4) habitual intemperance;
- (5) conviction of a crime involving moral turpitude;
- (6) conduct prejudicial to the administration of justice which brings the office into disrepute; or
- (7) knowingly authorizing or permitting an assistant solicitor to commit any act constituting grounds for removal, as defined in subsections (1) through (6) hereof.

A proceeding to suspend or remove a solicitor is commenced by filing with the clerk of superior court of the county where the solicitor resides a sworn affidavit charging the solicitor with one or more grounds for removal. The clerk shall immediately bring the matter to the attention of the senior regular resident superior court judge for the district, who shall within 15 days either review and act on the charges or refer them for review and action within 15 days to another superior court judge residing in or regularly holding the courts of the district. If the superior court judge upon review finds that the charges if true constitute grounds for suspension, and finds probable cause for believing that the charges are true, he may enter an order suspending the solicitor from performing the duties of his office until a final determination of the charges on the merits. During the suspension the salary of the solicitor continues.

If a hearing, with or without suspension, is ordered, the solicitor should receive immediate written notice of the proceedings and a true copy of the charges, and the matter shall be set for hearing not less than 10 days nor more than 30 days thereafter. The matter shall be set for hearing before the judge who originally examined the charges or before another regular superior court judge resident in or regularly holding the courts of the district. The hearing

shall be open to the public. All testimony shall be recorded. At the hearing the superior court judge shall hear evidence and make findings of fact and conclusions of law and if he finds that grounds for removal exist, he shall enter an order permanently removing the solicitor from office, and terminating his salary. If he finds that no grounds exist, he shall terminate the suspension, if any.

The solicitor may appeal from an order of removal to the Court of Appeals on the basis of error of law by the superior court judge. Pending decision of the case on appeal, the solicitor shall not perform any of the duties of his office. If, upon final determination, he is ordered reinstated either by the appellate division or by the superior court upon remand, his salary shall be restored from the date of the original order of removal."

Sec. 2. G.S. 7A-105 is rewritten to read as follows:

"G.S. 7A-105. *Suspension, removal, and reinstatement of clerk.* A clerk of superior court may be suspended or removed from office for willful misconduct or mental or physical incapacity, and reinstated, under the same procedures as are applicable to a superior court solicitor, except that the procedure shall be initiated by the filing of a sworn affidavit with the chief district judge of the district in which the clerk resides, and the hearing shall be conducted by the senior regular resident superior court judge serving the county of the clerk's residence. If suspension is ordered, the judge shall appoint some qualified person to act as clerk during the period of the suspension."

Sec. 3. G.S. 7A-173(a) is amended by deleting "district judge" in the second sentence, and inserting "judge of the General Court of Justice" in lieu thereof.

Sec. 4. G.S. 7A-173(c) is amended in line one by deleting "suspension", and inserting in lieu thereof "a hearing, with or without suspension," and in line 12, by deleting the period at the end of the subsection, and inserting in lieu thereof " , if any. "

Sec. 5. G.S. 7A-466 is amended by deleting "district court judge" in the last sentence thereof, and inserting in lieu thereof "superior court solicitor".

Sec. 6. G.S. 7A-143, and all other laws and parts of laws in conflict with this Act, are repealed.

Sec. 7. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of April, 1973.

H. B. 351

CHAPTER 149

AN ACT TO GRANT THE RIGHT OF TRIAL BY JURY AS TO THE ISSUE OF JUST COMPENSATION IN ALL CONDEMNATION ACTIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1A-1 Rule 38 is amended by adding and inserting thereto a new subsection to read as follows:

"(b) Right granted. The right of trial by jury as to the issue of just compensation shall be granted to the parties involved in any condemnation proceeding brought by bodies politic, corporations or persons which possess the power of eminent domain."

Sec. 2. G.S. 1A-1, Rule 38(b) is renumbered G.S. 1A-1, Rule 38(c); G.S.

1A-1, Rule 38(c) is renumbered G.S. 1A-1, Rule 38(d); and G.S. 1A-1, Rule 38(d) is renumbered G.S. 1A-1, Rule 38(e).

Sec. 3. This act shall be in full force and effect upon ratification.

In the General Assembly read three times and ratified, this the 9th day of April, 1973.

H. B. 616

CHAPTER 150

AN ACT TO PROHIBIT HUNTING WITH FIREARMS FROM THE RIGHT-OF-WAY OF HIGHWAYS IN WILKES COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It shall be unlawful to hunt, kill, take or attempt to hunt, kill, or take any animal by or with the use of firearms from any public road, highway or street in Wilkes County.

Sec. 2. Any person violating the provisions of this act shall be guilty of a misdemeanor and shall be fined not in excess of fifty dollars (\$50.00) or imprisoned not in excess of 30 days, or both, in the discretion of the court.

Sec. 3. This act shall be enforced by North Carolina Wildlife Protectors and all other law enforcement officers.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of April, 1973.

S. B. 77

CHAPTER 151

AN ACT TO AMEND GENERAL STATUTES CHAPTER 7A, ARTICLE 36, RELATING TO ENTITLEMENT OF INDIGENTS TO COUNSEL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-451(a) is amended by rewriting subparagraph(1) to read as follows: "Any case in which imprisonment, or a fine of five hundred dollars (\$500.00), or more, is likely to be adjudged;" and by rewriting subparagraph (4) to read as follows: "A hearing for revocation of probation, if confinement is likely to be adjudged as a result of the hearing;"

Sec. 2. G.S. 7A-451(b) is amended by rewriting subparagraph (2) to read as follows: "A pretrial identification procedure which occurs after formal charges have been preferred and at which the presence of the indigent is required;"

Sec. 3. G.S. 7A-457(a) is amended in line two by deleting "except one charged with a capital crime".

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of April, 1973.

H. B. 105

CHAPTER 152

AN ACT TO EMPOWER THE STATE HEALTH DIRECTOR TO
CONFIRM THE APPOINTMENT OF LOCAL HEALTH DIRECTORS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-18 is hereby amended by inserting between the word "health" and the word "shall" as the same appear in the first line of the section the following: " , upon consultation with the State Health Director and the Board of County Commissioners in the county or counties served by the local health department,".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of April, 1973.

H. B. 138

CHAPTER 153

AN ACT TO RESTRICT ALLOWABLE SUNDAY SALES OF BEER TO
CERTAIN BROWN-BAGGING PREMISES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 18A-33(b) is hereby amended by striking from the first paragraph the words "Article 3 of this Chapter" and inserting in lieu thereof "G.S. 18A-30(2) and (4)".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of April, 1973.

H. B. 218

CHAPTER 154

AN ACT TO AMEND G.S. 20-88(b)(4) SO THAT NURSERY PRODUCTS
WILL BE INCLUDED WITHIN THE DEFINITION OF FARM
PRODUCTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-88(b)(4), as the same appears in the 1971 Cumulative Supplement to the General Statutes, is hereby amended by deleting from line two thereof the following: "(but does not mean nursery products)" and by inserting in lieu thereof " , or other nursery products".

Sec. 2. Omit the period after the word "products" at the end of G.S. 20-88(b)(4) and by adding at the end of G.S. 20-88(b)(4) the following:

" , grown, produced, or processed by the farmer."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of April, 1973.

H. B. 371

CHAPTER 155

AN ACT TO INCREASE THE COMPENSATION OF THE BOARD OF COUNTY COMMISSIONERS OF YADKIN COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The salary of the Chairman of the Board of County Commissioners shall be one hundred and twenty-five dollars (\$125.00) per month, and the salary of the other members of the Board of Commissioners shall be one hundred dollars (\$100.00) per month. The Board of Commissioners is authorized to fix the expense allowance of its members as provided in G.S. 153-13.

Sec. 2. The increase in the salary of the Board of Commissioners is in consideration of additional duties to make recommendations for the location of roads within the County and for additional meetings of the Board.

Sec. 3. This act does not limit or restrict the authority of the Yadkin County Board of Commissioners to increase or reduce their own salaries and allowances pursuant to G.S. 153-13.

Sec. 4. This act applies only to Yadkin County.

Sec. 5. Chapter 682, Session Laws of 1967 is hereby repealed, and all laws and clauses of laws in conflict with this act are hereby repealed to the extent of such conflict.

Sec. 6. This act is effective July 1, 1973.

In the General Assembly read three times and ratified, this the 10th day of April, 1973.

H. B. 467

CHAPTER 156

AN ACT TO PROVIDE FOR REFUNDS OF AD VALOREM TAXES WHICH HAVE BEEN OVERPAID.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-382 is hereby amended by rewriting the same in its entirety to read as follows:

"§ 105-382. *Refunds of overpayment of taxes.*—(a) Any taxpayer may apply to the governing body of a taxing unit for a refund of tax which should not have been imposed but which was imposed through clerical error or which was illegal or levied for an illegal purpose. Such application must be made in writing and delivered to said governing body within three years after said tax first became due or within six months from the date of payment of such tax, whichever is the later date.

(b) Upon receiving the aforesaid application, the governing body of the taxing unit shall determine whether the tax, or any part of it, was imposed through clerical error, or was illegal or levied for an illegal purpose and shall either refund that portion of the amount paid that was in excess of the correct tax liability or notify the taxpayer, in writing and mailed to the address of the taxpayer last known to the governing body, that no refund will be made. The action of the governing body on each such claim for refund shall be recorded in its minutes.

(c) If, within 90 days after the taxpayer's application was submitted under subsection (a) above, the governing body of the taxing unit has failed to refund the full amount claimed by the taxpayer, has notified the taxpayer that no

refund will be made, or has taken no action on his application, the taxpayer may bring a civil action against the taxing unit for the amount claimed but not refunded. Such a suit shall be brought in the appropriate division of the General Court of Justice of the county in which the taxing unit is located. If upon the trial, it is determined that the tax or any part of it was imposed through clerical error or was illegal or levied for an illegal purpose, judgment shall be rendered therefor, with interest thereon from date of judgment at six per cent (6%) per annum, plus costs, and the judgment shall be collected as in other civil actions."

Sec. 2. This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of April, 1973.

H. B. 493

CHAPTER 157

AN ACT TO PROVIDE FOR THE NOMINATION AND ELECTION OF
COUNTY COMMISSIONERS OF DISTRICTS IN YADKIN COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The Board of County Commissioners of Yadkin County shall consist of five members who shall be nominated and elected as herein provided. For the purpose of nominating the members of the Board of County Commissioners, the County is hereby divided into three districts as follows:

District No. 1 shall consist of East Bend, Forbush, Liberty Townships and South Fall Creek Precinct. Two commissioners shall be nominated by the voters of the District, but shall be elected from District No. 1 by the voters of the entire County.

District No. 2 shall consist of Boonville Township and North Fall Creek Precinct. One commissioner shall be nominated by the voters of the District, but shall be elected from District No. 2 by the voters of the entire County.

District No. 3 shall consist of Knobs, Buck Shoals and Deep Creek Townships. Two commissioners shall be nominated by the voters of the District, but shall be elected from District No. 3 by the voters of the entire County.

Sec. 2. Beginning with the primary and general election in 1974, and biennially thereafter, the candidates nominated in the Districts shall have their names placed upon the general election ballot and shall be voted upon in the general election by the voters of the entire County. The five candidates, regardless of the district from which nominated, receiving the highest number of votes in the general election, shall be elected and shall serve for a term of two years and until their successors are elected and qualify. A vacancy occurring in the Board of County Commissioners shall be filled for the unexpired term as now provided by general law.

The primary and general election shall be held and conducted as provided in Chapter 163 of the General Statutes of North Carolina except as may be otherwise provided herein.

Sec. 3. Chapter 967, Session Laws of 1969, and Chapter 164, Session Laws of 1971, are hereby repealed and all laws and clauses of laws in conflict with the provisions of this act are hereby repealed to the extent of such conflict.

Sec. 4. This act is effective on ratification.

In the General Assembly read three times and ratified, this the 10th day of April, 1973.

H. B. 500 CHAPTER 158

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF TROUTMAN AND TO REPEAL PRIOR CHARTER ACTS.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Troutman is hereby revised and consolidated to read as follows:

"THE CHARTER OF THE TOWN OF TROUTMAN.

"ARTICLE I. INCORPORATION AND CORPORATE POWERS.

"Sec.1.1. *Incorporation and General Powers.*—The Town of Troutman shall continue to be a body politic and corporate under the name of the 'Town of Troutman', and shall continue to be vested with all property and rights which now belong to the Town; shall have perpetual succession; may have a common seal and alter and renew the same at pleasure; may sue and be sued; may contract, may acquire and hold all such property, real and personal, as may be devised, bequeathed, sold or in any manner conveyed or dedicated to it, or otherwise acquired by it, and may from time to time hold or invest, sell, or dispose of the same; and shall have and may exercise in conformity with this Charter all municipal powers, functions, rights, privileges, and immunities of every name and nature.

"Sec. 1.2. *Exercise of Powers.*—All powers, functions, rights, privileges, and immunities of the Town, its officers, agencies, or employees, shall be carried into execution as provided by this Charter, or, if this Charter makes no provision, as provided by ordinance or resolution of the Board of Aldermen and as provided by the general laws of North Carolina pertaining to municipal corporations.

"Sec. 1.3. *Enumerated Powers Not Exclusive.*—The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive but, in addition to the powers enumerated herein or implied hereby, or those appropriate to the exercise of such powers, the Town of Troutman shall have and may exercise all powers which are granted to municipal corporations by the general laws of North Carolina and all powers which, under the Constitution of North Carolina, it would be competent for this Charter specifically to enumerate.

"ARTICLE II. CORPORATE BOUNDARIES.

"Sec. 2.1. *Existing Corporate Boundaries.*—(a) The corporate limits of the Town of Troutman shall be those existing at the time of the ratification of this Charter and as the same may be altered from time to time in accordance with law. The Board of Aldermen shall cause to be prepared a map to be designated 'Map of the Town of Troutman Corporate Limits' showing the corporate limits as the same may exist as of the effective date of this Charter. The Board of Aldermen shall also cause to be prepared a written description of the corporate limits as shown on said map to be designated 'Description of Troutman Corporate Limits'. Said map and description shall be retained permanently in the office of the Town Clerk as the official map and a description of the corporate limits of the Town. Immediately upon alteration of the corporate limits made pursuant to law from time to time, the Board of Aldermen shall cause to be made the appropriate changes and/or additions to said official map and description. Photographic types or other copies of said official map or description certified as by law provided for the certification of ordinances shall

be admitted in evidence in all courts and shall have the same force and effect as would the official map or description.

(b) The Town Board shall require the redrawing of the official map and the rewriting of the official description as may from time to time be required. A redrawn map and a rewritten description shall supersede for all purposes the earlier maps and descriptions which are respectively replaced.

"Sec. 2.2. *Extension of Corporate Boundaries.*—All extensions of the corporate boundaries shall be governed by the General Statutes of North Carolina.

"ARTICLE III. MAYOR AND BOARD OF ALDERMEN.

"Sec. 3.1. *Composition of Board of Aldermen.*—The Board of Aldermen shall consist of three members to be elected by the qualified voters of the Town voting at large in the manner provided in Article IV of this Charter.

"Sec. 3.2. *Mayor and Mayor Pro Tempore.*—The Mayor shall be elected by and from the qualified voters of the Town voting at large in the manner provided in Article IV of this Charter. The Mayor shall be the official head of the town government and shall preside at all meetings of the Board of Aldermen. When there is an equal division on a question, the Mayor shall resolve the deadlock by his vote, but he shall vote in no other case. The Mayor shall exercise such powers and perform such duties as are or may be conferred upon him by the general laws of North Carolina, by this Charter, and by the ordinances of the Town. The Board of Aldermen shall choose one of its number to act as Mayor Pro Tempore, and he shall perform the duties of the Mayor in the Mayor's absence or disability. The Mayor Pro Tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the Board.

"Sec. 3.3. *Terms; Qualifications; Vacancies.*—(a) The Mayor and members of the Board of Aldermen shall serve for terms of two years, beginning the day and hour of the organizational meeting following their election, as established by ordinance in accordance with this Charter; provided, they shall serve until their successors are elected and qualify.

(b) No person shall be eligible to be a candidate or be elected as Mayor or as a member of the Board of Aldermen or to serve in such capacity, unless he is a resident and a qualified voter of the Town.

(c) In the event a vacancy occurs in the office of Mayor or Alderman, the Board shall by majority vote appoint some qualified person to fill the same for the remainder of the unexpired term.

"Sec. 3.4. *Organization of Board of Aldermen; Oaths of Office.*—The Board of Aldermen shall meet and organize for the transaction of business at the first regularly scheduled meeting of the Board following each biennial election. Before entering upon their offices, the Mayor and each Alderman shall take, subscribe to and have entered upon the minutes of the Board the following oath of office:

'I, _____, do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States, and the Constitution and Laws of North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office as _____, so help me, God.'

"Sec. 3.5. *Meetings of Board.*—The Board of Aldermen shall fix a suitable time and place for its regular meetings, which shall be held at least as often as

once monthly. Special meetings may be held according to the procedures and requirements designated by the general laws of North Carolina pertaining to special meetings of city councils.

"Sec. 3.6. *Quorum; Votes.*—(a) A majority of the members elected to the Board of Aldermen shall constitute a quorum for the conduct of business, but a less number may adjourn from time to time and compel the attendance of absent members in such manner as may be prescribed by ordinance.

(b) The affirmative vote of a majority of the members elected to the Board of Aldermen not excused from voting on the question in issue shall be necessary to adopt any ordinance, or any resolution or motion having the effect of an ordinance. All other matters to be voted upon shall be decided by a majority vote of those present and voting.

"Sec. 3.7. *Ordinances and Resolutions.*—The adoption, amendment, repeal, pleading, or proving of ordinances shall be in accordance with the applicable provisions of the general laws of North Carolina not inconsistent with this Charter. The ayes and noes shall be taken upon all ordinances and resolutions and entered upon the minutes of the Board. The enacting clause of all ordinances shall be: 'Be it ordained by the Board of Aldermen of the Town of Troutman'. All ordinances and resolutions shall take effect upon adoption unless otherwise provided therein.

"ARTICLE IV. ELECTIONS.

"Sec. 4.1. *Regular Municipal Elections.*—Regular municipal elections shall be held biennially in odd-numbered years on the day set by general law for municipal elections. In each election, the candidate for Mayor who receives the largest number of votes cast for Mayor shall be declared elected for a term of two years and the three candidates for Alderman who receive the largest number of votes cast for Alderman shall be declared elected for terms of two years.

"Sec. 4.2. *Regulation of Elections.*—All Town elections shall be conducted in accordance with the general laws of North Carolina relating to municipal elections.

"ARTICLE V. TOWN ATTORNEY.

"Sec. 5.1. *Appointment; Qualifications; Term; Compensation.*—The Board of Aldermen shall appoint a Town Attorney who shall be an attorney-at-law licensed to engage in the practice of law in North Carolina and who need not be a resident of the Town during his tenure. The Town Attorney shall serve at the pleasure of the Board and shall receive such compensation as the Board shall determine.

"Sec. 5.2. *Duties of Town Attorney.*—It shall be the duty of the Town Attorney to prosecute and defend suits for and against the Town; to advise the Mayor, Board of Aldermen and other Town officials with respect to the affairs of the Town; to draft all legal documents relating to the affairs of the Town; to draft proposed ordinances when requested to do so; to inspect and pass upon all agreements, contracts, franchises and other instruments with which the Town may be concerned; to attend all meetings of the Board of Aldermen when required by the Board; and to perform such other duties as may be required of him by virtue of his position as Town Attorney.

"ARTICLE VI. ADMINISTRATIVE OFFICERS AND EMPLOYEES.

"Sec. 6.1. *Town Clerk.*—The Board of Aldermen may appoint a Town Clerk to keep a journal of the proceedings of the Board of Aldermen and to maintain in a safe place all records and documents pertaining to the affairs of the Town, and

to perform such other duties as may be required by law or as the Board of Aldermen may direct.

“Sec. 6.2. *Town Tax Collector.*—The Board of Aldermen may appoint a Tax Collector to collect all taxes, licenses, fees and other moneys belonging to the Town, subject to the provisions of this Charter and the ordinances of the Town, and he shall diligently comply with and enforce all the general laws of North Carolina relating to the collection, sale, and foreclosure of taxes by municipalities.

“Sec. 6.3. *Town Budget Officer.*—The Board of Aldermen may appoint a Town Budget Officer to perform the duties of the Budget Officer as required by the Local Government Budget and Fiscal Control Act.

“Sec. 6.4. *Town Finance Officer.*—The Board of Aldermen may appoint a Town Finance Officer to perform the duties of the Finance Officer as required by the Local Government Budget and Fiscal Control Act.

“Sec. 6.5. *Consolidation of Functions.*—The Board of Aldermen may consolidate any two or more of the positions of Town Clerk, Town Tax Collector, Town Budget Officer, and Town Finance Officer, or may assign the functions of any one or more of these positions to the holder or holders of any other of these positions.

“ARTICLE VII. FINANCE.

“Sec. 7.1. *Custody of Town Money.*—All moneys received by the Town for or in connection with the business of the Town government shall be paid promptly into the Town depository or depositories. Such institutions shall be designated by the Town Board in accordance with the regulations and subject to the requirements as to security for deposits and interest thereon as may be established by the General Statutes of North Carolina. All interest on moneys belonging to the Town shall accrue to the benefit of the Town. All moneys belonging to the Town shall be disbursed in accordance with the provisions of the Local Government Budget and Fiscal Control Act.

“Sec. 7.2. *Independent Audit.*—As soon as possible after the close of each fiscal year, an independent audit shall be made of all books and accounts of the Town government by a certified public accountant or an accountant certified by the Local Government Commission. The audit shall be secured in accordance with the provisions of the Local Government Budget and Fiscal Control Act.

“ARTICLE VIII. POLICE.

“Sec. 8.1. *Jurisdiction.*—The jurisdiction of the police force is hereby extended to include all Town-owned property and facilities whether located within or outside the corporate limits, and all members of the police force shall have upon and within such property and facilities all rights, power and authority as they have within the corporate limits.

“ARTICLE IX. STREET AND SIDEWALK IMPROVEMENTS.

“Sec. 9.1. *Street Improvements; Assessment of Costs.*—In addition to any authority which is now or may hereafter be granted by general law to the Town for making street improvements the Board of Aldermen is hereby authorized to make street improvements and to assess the cost thereof against abutting property owners in accordance with the provisions of this Article.

“Sec. 9.2. *When Petition Unnecessary.*—The Board of Aldermen may order street improvements and assess the cost thereof, exclusive of the costs incurred at street intersections, against the abutting property owners, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the

North Carolina General Statutes, without the necessity of a petition, upon the finding by the Board as a fact:

(a) That the street improvement project does not exceed 1,200 linear feet, and

(b) That such street or part thereof is unsafe for vehicular traffic and it is in the public interest to make such improvement, or

(c) That it is in the public interest to connect two streets, or portions of a street already improved, or

(d) That it is in the public interest to widen a street, or part thereof, which is already improved; provided, that assessments for widening any street or portion of street without a petition shall be limited to the cost of widening and otherwise improving such street in accordance with the street classification and improvement standards established by the Town's thoroughfare or major street plan for the particular street or part thereof to be widened and improved under the authority granted by this Article.

"Sec. 9.3. *Street Improvement Defined.*—For the purposes of this Article, the term 'street improvement' shall include grading, regrading, surfacing, resurfacing, widening, paving, repaving, the acquisition of right-of-way, and the construction or reconstruction of curbs, gutters and street drainage facilities.

"Sec. 9.4. *Sidewalks; Assessment of Costs.*—In addition to any authority which is now or may hereafter be granted by general law to the Town for making sidewalk improvements, the Board of Aldermen is hereby authorized, without the necessity of a petition, to make or to order to be made sidewalk improvements or repairs according to standards and specifications of the Town, and to assess the total cost thereof against abutting property owners, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the North Carolina General Statutes; provided, however, that regardless of the assessment basis or bases employed, the Board of Aldermen may order the cost of sidewalk improvements made only on one side of a street to be assessed against property owners abutting both sides of such street.

"Sec. 9.5. *Assessment Procedure.*—In ordering street and sidewalk improvements without a petition and assessing the cost thereof under authority of this Article, the Board of Aldermen shall comply with the procedure provided by Article 10, Chapter 160A of the General Statutes, except those provisions relating to the petition of property owners and the sufficiency thereof.

"Sec. 9.6. *Effect of Assessments.*—The effect of the act of levying assessments under the authority of this Article shall for all purposes be the same as if the assessments were levied under authority of Article 10 of Chapter 160A of the General Statutes.

"Sec. 9.7. *Acceptance of Conveyance in Satisfaction of Assessments.*—The Town Tax Collector or other official or employee of the Town having charge of the collection of special assessments, shall have the right, power and authority, by and with the approval of the Board of Aldermen first obtained and had, to receive and accept a fee simple conveyance to the Town of any lot or parcel of land in the Town, free and clear of other encumbrances, in full settlement and satisfaction of all street and sidewalk assessments outstanding and unpaid against such property. Such right, power, and authority, however, shall be limited to a conveyance of the whole of the lot or parcel of land against which the particular assessment or assessments involved were levied. No lot or tract of land may be divided and no such right, power, and authority exercised as to a

part, only, of the property originally embraced in and covered by said assessment or assessments. In the case of such conveyance, it shall not be necessary that the street or sidewalk assessment or assessments against the property be foreclosed; but the Town, upon the receipt of any such conveyance, shall become and be the absolute fee simple owner of the property, as fully to all intents and purposes as if purchased in and through foreclosure proceedings for the enforcement of such street and sidewalk assessment or assessments.

"ARTICLE X. CLAIMS AGAINST THE TOWN.

"Sec. 10.1. *Presentation of Claims; Suit Upon Claims.*—(a) All claims or demands against the Town of Troutman arising in tort or in contract shall be presented to the Board of Aldermen in writing, signed by the claimant, his attorney or agent, within 90 days after the claim or demand is due or the cause of action accrues, and no suit or action shall be brought thereon within 30 days or after the expiration of 12 months from the time said claim or demand is so presented. Unless the claim or demand is so presented within 90 days after the cause of action accrues, and unless suit is brought within 12 months thereafter, any action thereon is barred.

(b) No action shall be instituted against the Town for damages to or compensation for real property taken or used by the Town for any public purpose, or for the ejectment of the Town therefrom, or to remove a cloud upon the title thereof, unless, within two years after such alleged use, the owner, his executor, administrator, guardian, or next friend, shall have given notice in writing to the Board of Aldermen of the claim, stating in the notice the date that the alleged use commenced, a description of property alleged to have been used, and the amount of the damage or compensation claimed.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, if a complainant suffers from physical or mental incapacity that renders it impossible for him to give notice, his action shall not be barred if notice of claim is given by him or on his behalf within six months after the termination of his incapacity; provided, that minority shall not of itself constitute physical or mental incapacity. If the complainant is a minor, his action shall not be barred if notice of claim is given on his behalf within three years after the occurrence or the infliction of the injury complained of; or, if the minor suffers from physical or mental incapacity that renders it impossible for him to give notice, his action shall not be barred if notice of claim is given on his behalf within six months after termination of the incapacity, or within three years after the occurrence or the infliction of the injury complained of, whichever is the longer period. The Town may at any time request the appointment of a next friend to represent any person having a potential claim against the Town and known to be suffering from physical or mental incapacity."

Sec. 2. The purpose of this act is to revise the Charter of the Town of Troutman and to consolidate herein certain acts concerning the property, affairs, and government of the Town. It is intended to continue without interruption those provisions of prior acts which are consolidated into this act, so that all rights and liabilities that have accrued are preserved and may be enforced.

Sec. 3. This act shall not be deemed to repeal, modify, or in any manner affect any of the following acts, portions of acts, or amendments thereto,

whether or not such acts, portions of acts, or amendments are expressly set forth herein:

(a) Any acts concerning the property, affairs, or government of public schools in the Town of Troutman.

(b) Any acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind.

Sec. 4. (a) The following act, having served the purposes for which it was enacted, or having been consolidated into this act is hereby repealed: Chapter 44, Private Laws 1905.

Sec. 5. No provision of this act is intended, nor shall be construed, to affect in any way any rights or interests (whether public or private):

(a) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provision of law repealed by this act;

(b) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken (including the adoption of ordinances or resolutions) pursuant to or within the scope of any provisions of law repealed by this act.

Sec. 6. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(a) The repeal herein of any act repealing such law, or

(b) Any provision of this act that disclaims an intention to repeal or effect enumerated or designated laws.

Sec. 7. (a) All existing ordinances and resolutions of the Town of Troutman, and all existing rules or regulations of departments or agencies of the Town of Troutman, not inconsistent with the provisions of this act, shall continue in full force and effect until repealed, modified or amended.

(b) No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act by or against the Town of Troutman or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

Sec. 8. Severability. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 9. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 10. This act shall be effective upon its ratification.

In the General Assembly read three times and ratified, this the 10th day of April, 1973.

H. B. 508

CHAPTER 159

AN ACT TO PROVIDE A SUPPLEMENTAL RETIREMENT FUND FOR FIREMEN IN THE CITY OF ELIZABETH CITY AND TO MODIFY THE APPLICATION OF G.S. 118-5, G.S. 118-6, AND G.S. 118-7 TO THE CITY OF ELIZABETH CITY.

The General Assembly of North Carolina enacts:

Section 1. Supplemental Retirement Fund Created. The Board of Trustees of the Local Firemen's Relief Fund of the City of Elizabeth City, as established in accordance with G.S. 118-6, hereinafter called the Board of Trustees, shall create and maintain a separate fund to be called the Elizabeth City Firemen's Supplemental Retirement Fund, hereinafter called the Supplemental Retirement Fund, and shall maintain books of account for such fund separate from the books of account of the Firemen's Local Relief Fund of the City of Elizabeth City, hereinafter called the Local Relief Fund. The Board of Trustees shall pay into the Supplemental Retirement Fund the funds prescribed by this act.

Sec. 2. Transfers of Funds and Disbursements. Notwithstanding the provisions of G.S. 118-7, the Board of Trustees of the local Firemen's Relief Fund of the City of Elizabeth City shall:

(a) prior to January 1, 1974, transfer to the Supplemental Retirement Fund all funds, including earnings on investments, of the Local Relief Fund in excess of ten thousand dollars (\$10,000);

(b) in each subsequent calendar year, and within 30 days after receipt from the City Treasurer of the annual funds paid to the Local Relief Fund by authority of G.S. 118-5, transfer to the Supplemental Retirement Fund such funds;

(c) at any time when the amount of funds in the Local Relief Fund shall, by reason of disbursements authorized by G.S. 118-7, be less than ten thousand dollars (\$10,000), transfer from the Supplemental Retirement Fund to the Local Relief Fund an amount sufficient to maintain in the Local Relief Fund the sum of ten thousand dollars (\$10,000);

(d) as soon as practicable after January 1 of each year, but in no event later than July 1, divide the income earned in the preceding calendar year upon investments of funds belonging to the Supplemental Retirement Fund and upon investments of funds belonging to the Local Relief Fund into equal shares and disburse the same as supplemental retirement benefits in accordance with Section 3 of this act.

Sec. 3. Supplemental Retirement Benefits. (a) Each retired fireman of the city who has previously retired with 20 years service or more as a city fireman, either fully paid or volunteer, shall be entitled to and shall receive the following supplemental retirement benefits:

(1) one share for each full year of service as a full-time and fully paid fireman of the city.

(2) one half of one share for each full year of service as a volunteer fireman of the city.

(b) Any former fireman of the city, either full-time and fully paid or volunteer, who is not otherwise entitled to supplemental retirement benefits under subsection (a) of this section, shall nevertheless be entitled to such

benefits in any calendar year in which the Board of Trustees makes the following written findings of fact:

- (1) that he initially retired from his position as fireman because of his inability, by reason of sickness or injury, to perform the normal duties of an active fireman; and
- (2) that, within 30 days prior to or following his initial retirement as a fireman, at least two physicians licensed to practice medicine in North Carolina certified that he was at such time unable, by reason of sickness or injury, to perform the normal duties of an active fireman; and
- (3) that, since the preceding January 1, at least two physicians licensed to practice medicine in North Carolina have certified that he remains unable, by reason of sickness or injury, to perform the normal duties of an active fireman.

Sec. 4. Intention. It is the intention of Section 3 of this act to authorize the disbursement as supplemental retirement benefits only of the income derived in any calendar year from the investments of funds belonging to the Supplemental Retirement Fund and the Local Relief Fund, and it is the intention of Section 2 of this act to require that the funds paid into the Supplemental Retirement Fund pursuant to subsections (a) and (b) thereof shall be held in trust, and that no funds paid into the Supplemental Retirement Fund pursuant to subsections (a) and (b) thereof or as a gift, grant, bequest, or donation to such fund shall ever be disbursed except as and when required by subsection (c) thereof.

Sec. 5. Investment of Funds. The Board of Trustees is hereby authorized to invest any funds, either of the Local Relief Fund or of the Supplemental Retirement Fund, in any investment named in or authorized by either G.S. 160-411.5 or G.S. 160-431, and is hereby directed to invest all of the funds of the Supplemental Retirement Fund in one or more of such investments; provided, that investments in certificates of deposit or time deposits in any bank or trust company, or in shares of any building and loan or savings and loan association, shall not exceed the amounts insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, as the case may be, unless such deposits or investments in shares are secured in the manner provided by G.S. 159-28.

Sec. 6. Acceptance of Gifts. The Board of Trustees is hereby authorized to accept any gift, grant, bequest, or donation of money for the use of the Supplemental Retirement Fund.

Sec. 7. Bond of Treasurer. The Board of Trustees shall bond the Treasurer of the Local Relief Fund with a good and sufficient bond, in an amount at least equal to the amount of funds in his control, payable to the Board of Trustees, and conditioned upon the faithful performance of his duties; such bond shall be in lieu of the bond required by G.S. 118-6. The Board of Trustees shall pay the premiums on the bond of the Treasurer.

Sec. 8. If any provision of this act shall be declared invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions hereof which can be given effect without the invalid provision, and to this end the provisions of this act are declared to be severable.

Sec. 9. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 10. This act shall be effective upon its ratification.

In the General Assembly read three times and ratified, this the 10th day of April, 1973.

H. B. 509

CHAPTER 160

AN ACT CREATING A WILDLIFE PRESERVE AND BIRD SANCTUARY IN SNUG HARBOR IN PERQUIMANS COUNTY.

The General Assembly of North Carolina enacts:

Section 1. There is hereby created a wildlife preserve and bird sanctuary in Snug Harbor, Bethel Township, Perquimans County. Said wildlife preserve and bird sanctuary shall embrace all of the lands described in plats recorded in the Public Registry of Perquimans County and more particularly set out as follows:

- "Section 'A' of Snug Harbor, Plat Book 4, Page 1.
- "Section 'B' of Snug Harbor, Plat Book 4, Page 3.
- "Section 'C' of Snug Harbor, Plat Book 4, Page 11.
- "Section 'D' of Snug Harbor, Plat Book 4, Page 33.
- "Section 'E' of Snug Harbor, Plat Book 4, Page 51.
- "Section 'F' of Snug Harbor, Plat Book 4, Page 53.
- "Amended Map of Lots 21, 22, 23, 24, 25, 26, in Section 'D' of Snug Harbor, Plat Book 4, Page 73.
- "Section 'G' of Snug Harbor, Plat Book 4, Page 109.
- "Section 'H' of Snug Harbor, Plat Book 4, Page 115.
- "Section 'L' of Snug Harbor, Plat Book 4, Page 123.
- "Section 'M' of Snug Harbor, Plat Book 4, Page 125.
- "Amended Lots in Section 'B' and 'C' of Snug Harbor Plat Book 4, Page 127.
- "Section 'J' of Snug Harbor, Plat Book 4, Page 135.
- "Section 'K' of Snug Harbor, Plat Book 4, Page 137.
- "Section 'N' of Snug Harbor, Plat Book 4, Page 163.
- "Section 'P' of Snug Harbor, Plat Book 4, Page 169.
- "Revised Map of Section 'N' of Snug Harbor, Plat Book 4, Page 173."

Sec. 2. It is the intent and purpose of this act to establish a wildlife preserve and bird sanctuary for the preservation and protection of all birds and animals which are or may be found on or in Snug Harbor.

Sec. 3. It shall be unlawful to trap, hunt, shoot, or otherwise kill or attempt to trap, hunt, shoot, or otherwise kill within the sanctuary herein established all birds and animals. Any person violating the provisions of this act shall be guilty of a misdemeanor and shall be punished by imprisonment for not more than 30 days or by a fine of not less than ten nor more than fifty dollars (\$50.00), or both fined and imprisoned, in the discretion of the court.

Sec. 4. This act shall become effective 30 days after ratification.

In the General Assembly read three times and ratified, this the 10th day of April, 1973.

H. B. 521

CHAPTER 161

AN ACT PROVIDING FOR THE TIME OF ELECTION OF MEMBERS OF THE CHAPEL HILL-CARRBORO CITY BOARD OF EDUCATION AND FIXING THEIR TERMS OF OFFICE.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 254 of the 1955 Session Laws as amended by Section 1 of Chapter 100 of the 1959 Session Laws is hereby rewritten as follows:

"Section 2. The Chapel Hill-Carrboro City Board of Education consists of seven (7) members elected for six-year terms. The election shall be held at the same time as provided by general law for the municipal elections for the Towns of Chapel Hill and Carrboro. At the election on November 6, 1973, and the election on November 4, 1975, and every third biennial election thereafter, two members shall be elected for six-year terms. At the election on November 8, 1977, and every third biennial election thereafter, three members shall be elected for six-year terms. Members shall take office on the first Monday in December following their election. The terms of all present members are extended until the first Monday in December following the election of their successors, or until their successors are elected and qualified. The elections shall be held and conducted by the Orange County Board of Elections under the same provisions of Articles 23 and 24 of Chapter 163 of the General Statutes which are applicable to the election of municipal officers in Chapel Hill and Carrboro."

Sec. 2. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 10th day of April, 1973.

H. B. 530

CHAPTER 162

AN ACT TO PERMIT THE COMPENSATION OF MEMBERS OF THE LEXINGTON CITY BOARD OF EDUCATION TO BE FIXED BY THE BOARD.

The General Assembly of North Carolina enacts:

Section 1. "Any provision of G.S. 115-29 notwithstanding, the Lexington City Board of Education may fix the compensation for each of its members, not to exceed seventy-five dollars (\$75.00) per month."

Sec. 2. Chapter 26, Section 3 of the Private Laws of 1935 is hereby amended by deleting therefrom the sentence, "Members of the Board shall receive no compensation for their services.", and inserting in lieu thereof the sentence, "The Board may fix the compensation of its members; however such compensation shall not exceed seventy-five dollars (\$75.00) per month."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of April, 1973.

H. B. 531

CHAPTER 163

AN ACT RELATING TO MITCHELL COUNTY AND THE RHODODENDRON FESTIVAL.

The General Assembly of North Carolina enacts:

Section 1. The County Commissioners of Mitchell County are authorized and directed to appropriate one thousand five hundred dollars (\$1,500) each year to the Board of Directors of the North Carolina Rhododendron Festival on Roan Mountain.

Sec. 2. This act shall become effective on June 1, 1973.

In the General Assembly read three times and ratified, this the 10th day of April, 1973.

H. B. 644

CHAPTER 164

AN ACT AMENDING GENERAL STATUTES SECTION 160-452 BY DELETING THE REQUIREMENT THAT AN AREA PROPOSED FOR ANNEXATION BE CONTIGUOUS TO THE BOUNDARIES OF THE CITY OF SELMA.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160-452(a) is hereby rewritten to read as follows:

“(a) The governing board of any municipality may annex by ordinance any area upon presentation to the governing board of a petition signed by the owners of all the real property located within such area. The petition shall be signed by each owner of real property in the area and shall contain the address of such owner.”

Sec. 2. G.S. 160-452 is hereby amended by adding to the end of subsection (b) thereof the following word “or”, and by adding a new subsection 3 to read:

“3. The area to be annexed is not contiguous to the City of Selma and the boundaries of such territory are as follows: . . .”

Sec. 3. G.S. 160-452 is hereby further amended by rewriting the last sentence in subsection (f) to read as follows:

“If the area to be annexed is contiguous to the boundaries of the City, then, in describing the area to be annexed in the annexation ordinance, the municipal governing board may include within the description any territory described in this subsection which separates the municipal boundary from the area petitioning for annexation.”

Sec. 4. This act shall apply only to the City of Selma.

Sec. 5. All laws and clauses of laws in conflict herewith are, to the extent of such conflict, repealed.

Sec. 6. This act shall be in full force and effect upon ratification.

In the General Assembly read three times and ratified, this the 10th day of April, 1973.

S. B. 418

CHAPTER 165

AN ACT TO ALLOW COUNTY COMMISSIONERS TO APPOINT THEIR LOCAL HEALTH DIRECTOR TO SERVE AS COUNTY PHYSICIAN BUT NOT TO REQUIRE THAT HE SERVE AS COUNTY PHYSICIAN.

The General Assembly of North Carolina enacts:

Section 1. The last sentence of G.S. 130-23 is hereby amended to read as follows:

"The county commissioners of each county are authorized to permit but are not authorized to require the local health director to serve as county physician."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1973.

H. B. 504

CHAPTER 166

AN ACT TO VALIDATE ACTS OF ASSISTANT AND DEPUTY REGISTERS OF DEEDS IN FAILING TO EXECUTE INSTRUMENTS IN THE NAME OF THE REGISTER OF DEEDS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 161 of the General Statutes is hereby amended by adding a new section, at the end thereof, to read as follows:

"§ 161-29. *Validating acts of assistant and deputy registers of deeds in failing to execute instruments in the name of the register of deeds.*—Any and all acts and duties performed by any and all assistant or deputy registers of deeds in executing any instrument, while acting under the provisions of G.S. 161-6 or any other provisions of law, general, local or special, which failed to substantially comply with G.S. 161-6(b), shall be and the same are hereby validated, ratified and confirmed to all intents and purposes as if executed in full compliance with G.S. 161-6(b)."

Sec. 2. The provisions of this validating act shall include all acts and duties of the office of assistant or deputy register of deeds, as enumerated and set forth under the specific provisions of this Chapter, or under the provisions of any general laws as set forth in the General Statutes of North Carolina, or in any other provisions of law, private, local or special.

Sec. 3. This act shall be in full force and effect from and after its ratification. This act shall not affect pending litigation and shall validate all acts and duties performed prior to the effective date of this act.

In the General Assembly read three times and ratified, this the 11th day of April, 1973.

H. B. 550

CHAPTER 167**AN ACT REQUIRING NOTICE BEFORE CONSTRUCTION OR IMPROVEMENT OF ANY BUILDING OR CONNECTION OF ANY HOUSE TRAILER IN PERQUIMANS COUNTY.***The General Assembly of North Carolina enacts:*

Section 1. No person, firm or corporation shall connect or cause to be connected any house trailer or mobile home to any septic tank or sewage system, or connect the same to any public electric system, and no person, firm or corporation shall commence or cause to be commenced the construction of any building, or improvement of any existing structure when the cost of such improvement will exceed five hundred dollars (\$500.00), in Perquimans County, without first filing notice thereof with the Perquimans County Tax Supervisor. Such notice shall be given on a form prescribed by the Tax Supervisor, and a written receipt acknowledging the filing of the notice shall be furnished the person who files the notice. Upon the filing of the notice a fee of one dollar (\$1.00) shall be paid to the Tax Supervisor, who shall cause the same to be deposited in the general fund of the County.

Sec. 2. Upon completion of the construction or improvement on any building as above described, but not later than six months from the time the first notice is required to be filed, the person required to file the notice above described shall file with the Tax Supervisor a written statement as to the cost of construction or improvement.

Sec. 3. Failure to file the notice or failure to file the report of cost as required by this act, or falsification of the amount of the cost as set forth in the cost report shall be a misdemeanor, punishable by fine or imprisonment, or both in the discretion of the court.

Sec. 4. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 5. This act shall be in full force and effect from and after July 1, 1973.

In the General Assembly read three times and ratified, this the 11th day of April, 1973.

H. B. 590

CHAPTER 168**AN ACT TO AMEND CHAPTER 412 OF THE SESSION LAWS OF 1969 RELATING TO THE REIDSVILLE FIREMAN'S SUPPLEMENTAL RETIREMENT FUND.***The General Assembly of North Carolina enacts:*

Section 1. Subsection (a) of Section 2 of Chapter 412 of the 1969 Session Laws is hereby amended by striking out "twenty-five (25)" therefrom and inserting "twenty (20)" in place thereof.

Sec. 2. Subsection (b) of Section 2 of Chapter 412 of the 1969 Session Laws is hereby amended by inserting after the word, "retired", and before the word, "shall", in line 1 thereof, a comma (,) and the following phrase, "and each

volunteer fireman of the city who shall retire with twenty (20) years service or more”.

Sec. 3. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 4. This act shall become effective upon ratification

In the General Assembly read three times and ratified, this the 11th day of April, 1973.

H. B. 579

CHAPTER 169

AN ACT PROVIDING FOUR-YEAR TERMS FOR THE BOARD OF COMMISSIONERS OF MADISON COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Beginning with the primary and general election to be held in 1974, the members of the Board of Commissioners of Madison County shall be elected for terms of four years.

Sec. 2. Chapter 201 of the Public-Local Laws of 1917 and Section 4 of Chapter 354 of the Public-Local Laws of 1941 are repealed, effective upon the expiration of the term of office of the incumbent Auditor or Accountant of Madison County. From and after the expiration of the term of office of the incumbent officer, the Madison County finance officer shall be appointed in the manner provided in Chapter 159 of the General Statutes of North Carolina.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1973.

H. B. 610

CHAPTER 170

AN ACT AUTHORIZING MUNICIPALITIES TO USE A CORPORATE STAMP WHICH IS A FACSIMILE OF ITS SEAL IN LIEU OF AN EMBOSSED CORPORATE SEAL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-11 is hereby amended by adding a second paragraph thereto to read as follows:

“All documents required or permitted by law to be executed by municipal corporations will be legally valid and binding in this respect when a legible corporate stamp, which is a facsimile of its seal, is used in lieu of an imprinted or embossed corporate or common seal.”

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1973.

H. B. 613

CHAPTER 171

AN ACT TO EQUALIZE OPTIONS FOR CERTAIN CITIES AND TOWNS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-285(1) is rewritten to read as follows:

“(1) The elections of cities, towns or incorporated villages which lie in more than one county shall be conducted either (i) by the county in which the greater number of the city’s citizens reside, according to the most recent federal census of population, or (ii) jointly by the boards of elections of each county in which such city, town or incorporated village is located, as may be mutually agreed upon by the county boards of elections so affected, or (iii) by a municipal board of elections appointed by the governing body of the municipality. The State Board of Elections shall have authority to promulgate regulations for more detailed administration and conduct of municipal elections by county or municipal boards of elections for cities situated in more than one county.”

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1973.

H. B. 640

CHAPTER 172

AN ACT TO AMEND CHAPTER 96 OF THE GENERAL STATUTES,
KNOWN AS THE EMPLOYMENT SECURITY LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 96-8(5)k. is amended by deleting, beginning in line 9 after the word “animals”, the following:

“as set out in Section 501(c)(3) of the Internal Revenue Code of 1954, that are exempt from income tax under Section 501(a) of the Internal Revenue Code of 1954,” and inserting in lieu thereof:

“and which is exempt or may be exempted from federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1954.”

Sec. 2. G.S. 96-9(c)(2)a is amended by deleting, beginning in line 10 after the word “period”, the following:

“except as provided in paragraph b of this subdivision.” and inserting in lieu thereof:

“except as hereinafter provided in paragraphs b, c, and d of this subdivision, G.S. 96-9(d)(2)c and G.S. 96-12(e)G.”

Sec. 3. G.S. 96-9(c)(2) is amended by adding a new paragraph “d.” immediately following paragraph “c.” to read as follows:

“d. Any benefits paid to any claimant under the following conditions shall not be charged to the account of the base period employer(s):

1. The benefits are paid for unemployment due directly to a major natural disaster, and
2. the President has declared the disaster pursuant to the Disaster Relief Act of 1970 42 USCA 4401, et seq., and
3. the benefits are paid to claimants who would have been eligible for disaster

unemployment assistance under this act, if they had not received unemployment insurance benefits with respect to that unemployment."

Sec. 4. G.S. 96-10(g) is amended by deleting, beginning in line 10 after the word "chapter" and before the word "of", the following:

"upon the complaint" and inserting in lieu thereof: "upon motion".

Sec. 5. G.S. 96-11(c)(3)b. is amended by deleting, beginning in line 1 after the word "in" and before the word "with", the following:

"G.S. 96-8(5)m." and inserting in lieu thereof: "G.S. 96-13(4)".

Sec. 6. G.S. 96-13(3) is amended by deleting, beginning in line 8, the following proviso:

"Provided further, that no individual separated from employment after July 1, 1961, shall be considered able and available for work who has been separated from employment due to pregnancy from the date of such separation until the birth of such individual's child, and no individual shall be considered able and available for work, regardless of the cause of such individual's separation from employment, for any week during the three-month period immediately before the expected birth of a child to such individual and for any week during the three-month period immediately following the birth of a child to such individual; however, no individual shall be denied benefits by reason of this proviso in the event of the death of such child, if such individual is otherwise eligible:".

Sec. 7. This act shall be in full force and effect upon its ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1973.

H. B. 717

CHAPTER 173

AN ACT TO RATIFY CERTAIN SEWER SYSTEM CONSTRUCTION CONTRACTS OF THE TOWN OF CARY AND TO AUTHORIZE PAYMENT OF THE COSTS OF SUCH CONTRACTS.

Whereas, employees of the Town of Cary inadvertently entered into contracts for construction of the Oakwood Heights Sewer Outfall and the North Harrison Street Outfall and Lift Station without securing formal bids as required by law, and the cost of each of said contracts after completion exceeded ten thousand dollars (\$10,000); and

Whereas, the Town has benefitted and has been enriched by at least the cost of each contract, and the work performed under each contract has been satisfactorily performed by each contractor; and

Whereas, the Town Council has paid a part of each contract and desires to pay each contract in full, but has been advised that it needs specific legislative authority to do so; and

Whereas, no citizen of the Town has offered complaint regarding either contract or the work performed under either contract, and no litigation is pending under either contract; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The Town Council of the Town of Cary is hereby authorized to appropriate and expend, in accordance with the Municipal Fiscal Control Act, funds necessary to pay the contractor for work performed in construction of the Oakwood Heights Sewer Outfall up to the total contract cost of fifteen thousand three hundred thirty-five dollars and ten cents (\$15,335.10) and the funds

necessary to pay the contractor for work performed in construction of the North Harrison Street Sewer Outfall and Lift Station up to the total contract cost of fifteen thousand two hundred fifty-two dollars and thirty-five cents (\$15,252.35). No member of the Town Council shall be personally liable for appropriations and expenditures authorized by this act.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1973.

H. B. 727

CHAPTER 174

AN ACT AUTHORIZING THE ANNEXATION OF INTERIOR ISLANDS
OF TERRITORY BY MUNICIPALITIES IN WAKE COUNTY AND IN
CERTAIN OTHER COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. (a) In addition to annexation of territory pursuant to other provisions of law, the governing body of any municipality may annex by ordinance any area which meets the following standards:

(1) the area to be annexed is completely surrounded by the existing municipal boundary.

(2) the total area to be annexed does not equal more than ten percent (10%) of the total area of all the territory within the existing municipal boundary.

(b) Prior to adoption of an ordinance pursuant to subsection (a) of this section, the governing body shall fix a date for a public hearing on the question of annexation, and shall cause a notice of the public hearing to be published once in a newspaper having general circulation in the municipality at least 10 days prior to the date of the public hearing. At the public hearing all persons owning property in, and all citizens of, the area to be annexed shall be given an opportunity to be heard, as well as residents of the municipality who question the necessity of annexation.

(c) Following the public hearing, immediately thereafter or at any time within 60 days, the governing body may adopt its annexation ordinance. The annexation ordinance shall fix its effective date for any date within 12 months from its adoption.

(d) The municipality shall, from and after the effective date of the annexation ordinance, provide within the annexed area all municipal services, other than utility services, on substantially the same basis and in the same manner as such services are provided within the rest of the municipality. The municipality shall provide for extension of major water mains and major sewer lines into the area to be annexed, if necessary, so that property owners therein will be able to secure public water and sewer services according to the policies in effect in the municipality for extending water and sewer lines to individual lots or subdivisions. If the municipality, at its own expense, extends its major water mains and major sewer lines into the area before property owners therein can, according to its policies, make connection to such lines, then it shall cause construction of such mains and lines to begin within one year following the effective date of annexation; provided that such one year period shall be

extended by the period or periods of any delays caused by litigation or necessary administrative approvals by any State or federal agency.

(e) From and after the effective date of the annexation ordinance, the annexed area and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the municipality and shall be entitled to the same privileges and benefits as other parts of the municipality. The newly annexed area shall be subject to municipal taxes levied for the fiscal year following the effective date of annexation.

(f) If not earlier than one year and not later than 15 months from the effective date of annexation, any person owning property in the annexed area shall believe that the municipality has not complied with the service requirements of subsection (d) of this section, such person may apply for a writ of mandamus under the provisions of Article 40, Chapter 1 of the General Statutes. Relief may be granted by the judge of superior court:

- (1) If the municipality has not provided the services other than utility services on substantially the same basis and in the same manner as such services were provided in the rest of the municipality prior to the effective date of annexation, and
- (2) If at the time the writ is sought such services are still being provided in the rest of the municipality on substantially the same basis and in the same manner as on the date of annexation.

Relief may also be granted by the judge of superior court if contracts have not yet been let for extension to the annexed area of any major water mains and major sewer lines necessary in order to enable property owners therein to make connection to such mains and lines according to the policies in effect for extending water and sewer lines to individual lots or subdivisions.

If such writ is issued, costs in the action, including a reasonable attorney's fee for such aggrieved person, shall be charged to the municipality.

(g) Whenever an area is annexed in accordance with this section, it shall be the duty of the mayor to cause an accurate map of such annexed area, together with a copy of the annexation ordinance duly certified, to be recorded in the office of the register of deeds of the county or counties in which such area is situated, and in the office of the Secretary of State.

Sec. 2. This act shall apply to municipalities in the following counties only: Wake

Sec. 3. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1973.

H. B. 773

CHAPTER 175

AN ACT TO AMEND G.S. 62-260, MOTOR CARRIER EXEMPTIONS, BY ADDING THE STATE OF NORTH CAROLINA TO THE LIST OF EXEMPTIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 62-260(a) is amended by adding a new subdivision to be designated "(1)" and to read as follows:

"(1) Transportation of passengers or property for or under the control of the State of North Carolina, or any political subdivision thereof, or any board, department or commission of the State, or any institution owned and supported by the State."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1973.

S. B. 382

CHAPTER 176

AN ACT TO PROVIDE SUPPLEMENTAL RETIREMENT FUNDS FOR FIREMEN IN THE CITY OF SALISBURY AND TO MODIFY THE APPLICATION OF G.S. 118-5, G.S. 118-6, AND G.S. 118-7 TO THE CITY OF SALISBURY.

The General Assembly of North Carolina enacts:

Section 1. Disbursements. Notwithstanding the provisions of G.S. 118-7, the Board of Trustees of the Local Firemen's Relief Fund of the City of Salisbury shall as soon as practical after January 15th and July 15th, but in no event later than March 1st or September 1st, divide the income earned in the preceding calendar six months, upon investment of funds belonging to the Local Firemen's Relief Fund into equal shares and disburse the same as supplemental retirement benefits in accordance with Section 2 of this act.

Sec. 2. Supplemental Retirement Benefits. (a) Each fireman of the City who has 20 years' service or more and who has attained the age of 55 years and retires after the ratification of this act shall be entitled to and shall receive an annual supplemental retirement benefit equal to one share for each full year of service as a full-time and fully-paid fireman of the City; provided, in no event shall any retired full-time fireman be entitled to or receive in any year an annual benefit in excess of six hundred dollars (\$600.00).

(b) Any former or present fireman of the City who has five years' service and who is not otherwise entitled under the supplemental retirement benefits under subsection (a) of this section shall nevertheless be entitled to such benefits in any calendar year in which the Board of Trustees makes the following written findings of fact:

- (1) that he initially retired from his position as fireman because of his inability, by reason of sickness or injury, to perform the normal duties of an active fireman; and
- (2) that, within 30 days prior to or following his initial retirement as a fireman, at least two physicians licensed to practice medicine in North Carolina certified that he was at such time unable, by reason of sickness or injury, to perform the normal duties of an active fireman; and
- (3) that, at the time of his initial retirement as a fireman, there was not

available to him in the fire department or in any other department of the City a position of employment the normal duties of which he was capable of performing; and

- (4) that, since the preceding January 1, at least two physicians licensed to practice medicine in North Carolina have certified that he remains unable, by reason of sickness or injury, to perform the normal duties of an active fireman; provided, that the Board of Trustees, after initially making the findings of fact specified in (1), (2), and (3) of this subsection, need not specify such findings in any subsequent calendar year unless there is valid reason to believe that he is able to return to normal duty.

Sec. 3. *Intention.* It is the intention of Sections 1 and 2 of this act to authorize the disbursement as supplemental retirement benefits only of the income derived in any calendar year from the investments of funds belonging to the Local Firemen's Relief Fund. Any of these funds not disbursed shall revert to the Local Firemen's Relief Fund.

Sec. 4. *Investment of Idle Funds.* The Board of Trustees is hereby authorized and directed to invest all funds of the Local Firemen's Relief Fund in one or more of the investments named in G.S. 159-30.

Sec. 5. *Bond of Treasurer.* The Board of Trustees shall bond the Treasurer of the Local Firemen's Relief Fund with a good and sufficient bond, in an amount at least equal to the amount of funds in his control, payable to the Board of Trustees, and conditioned upon the faithful performance of his duties; such bond shall be in lieu of the bond required by G.S. 118-6. The Board of Trustees shall pay from the Local Firemen's Relief Fund the premiums on the bond of the Treasurer.

Sec. 6. If any provision of this act shall be declared invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions hereof which can be given effect without the invalid provision, and to this end the provisions of this act are declared to be severable.

Sec. 7. This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1973.

S. B. 385

CHAPTER 177

AN ACT TO REPEAL CHAPTER 310 OF THE 1943 SESSION LAWS SEPARATING THE COUNTY JAILER FROM THE JURISDICTION OF THE SHERIFF'S OFFICE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 310 of the 1943 Session Laws is hereby repealed.

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1973.

S. B. 424

CHAPTER 178

AN ACT TO AMEND CHAPTER 134, SESSION LAWS OF 1967, TO PROVIDE FOR THE ELECTION AND TERMS OF OFFICE OF THE BOARD OF TRUSTEES OF THE SANFORD GRADED SCHOOL DISTRICT SO AS TO CONFORM THE DATE OF ELECTION TO THE REGULAR MUNICIPAL ELECTIONS IN THE TOWN OF SANFORD.

The General Assembly of North Carolina enacts:

Section 1. Chapter 134, Session Laws of 1967, is hereby amended by rewriting Sections 1 and 2 to read:

“Section 1. The Board of Trustees of the Sanford Graded School District in Lee County, shall consist of seven members who shall serve staggered terms of six years, and who shall be elected by the qualified voters of the Sanford Graded School District.

“Sec. 2. At the regular municipal elections to be held for municipal officers in the Town of Sanford in November 1973, there shall be elected three members of the Board of Trustees to succeed those members whose terms expire in 1973. Those members elected in 1973 shall serve for a term of six years commencing on the first Monday in December following their election. In the regular municipal election in 1975, and every two years thereafter, as the terms of members expire, their successors shall be elected for terms of six years, said terms commencing on the first Monday in December following their election. Vacancies occurring on the Board of Trustees for any cause shall be filled for the unexpired term by appointment by the remaining members of the Board.”

Sec. 2. Chapter 134, Session Laws of 1967, is hereby amended by rewriting Section 4 to read as follows:

“Sec. 4. The Board of Elections of Lee County shall conduct all elections for the Sanford Graded School District including bond and special elections in accordance with the laws applicable to the particular election to be held. Except as may be provided in this act, elections for members of the Board of Trustees shall be held under the same provisions of Articles 23 and 24 of Chapter 163 of the General Statutes, which are applicable to regular municipal elections in the Town of Sanford. The County Board of Elections shall be reimbursed by the Board of Trustees for the actual cost of elections held for the School District.”

Sec. 3. The terms of J. R. Ingram, Jr., Dr. M. Cade Covington and J. M. Auman are hereby extended to the first Monday in December, 1973. The terms of Glen York and Mary Alice Holmes, scheduled to expire June 30, 1975, and the terms of Joseph Roy Utley and Nan G. Howard, scheduled to expire June 30, 1977, are all hereby extended to the first Monday in December of the year in which their terms are scheduled to expire.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1973.

S. B. 462

CHAPTER 179

AN ACT AMENDING CHAPTER 73, SENATE BILL 185 OF THE 1971 SESSION OF THE GENERAL ASSEMBLY OF NORTH CAROLINA, PROVIDING FOR AN AMENDMENT IN THE TOWN BOUNDARY LIMITS OF THE TOWN OF MINT HILL, TO CORRECT SURVEY ERRORS IN THE ORIGINAL BOUNDARY.

The General Assembly of North Carolina enacts:

Section 1. Section 2.1 of "The Charter of the Town of Mint Hill", as set out in Section 1 of Chapter 73 of the 1971 Session Laws, is hereby amended and rewritten as follows:

"Sec. 2.1. Corporate Boundaries. The corporate boundaries of the Town of Mint Hill shall be as follows until changed in accordance with law:

BEGINNING at an existing old iron pipe, said old iron pipe being the Southeast corner of the Bob McLemore and Company, Inc., property, recorded in Deed Book 3417, Page 319 of Mecklenburg County, North Carolina, Register of Deeds Office, said iron pipe also being N88°05'35" W, 260.730 feet from North Carolina grid coordinate monument, named Presson, having coordinates 514,915.528 North and, 1,498,671.400 East, thence from said old iron pipe having the North Carolina grid coordinates of 514,924.204 North and, 1,498,410.815 East, the following courses and distances, N 23°26'11" W, 112.770 feet to an existing old iron pipe, thence N 26°36'22" W, 424.568 feet to an existing old iron pipe, thence N 14°44'15" E, 1218.447 feet to an existing iron pipe, thence N 31°17'51" W, 2533.220 feet to an existing iron pipe, thence N 51°25'02" E, 494.491 feet to an existing old iron pipe, thence N 65°08'27" E, 1017.194 feet to an existing old iron pipe, thence N 36°39'21" W, 3285.569 feet to an existing old iron pipe, thence S 53°09'58" W, 424.916 feet to an existing old iron pipe, thence S 25°22'53" E, 369.562 feet to an existing old iron pipe, thence S 25°29'03" E, 898.470 feet to a point in the center line of Irvin Creek, thence with the old run of Irvin Creek the following courses and distances, S 45°28'18" W, 71.911 feet to a point, thence S 67°24'40" W, 100.529 feet to a point, thence N 62°58'27" W, 36.695 feet to a point, thence N 51°31'37" W, 37.959 feet to a point, thence S 68°48'13" W, 53.243 feet to a point, thence S 61°49'20" W, 32.575 feet to a point, thence S 66°32'30" W, 83.787 feet to a point, thence N 60°05'38" W, 21.333 feet to a point, thence N 72°42'05" W, 145.791 feet to a point, thence S 72°15'03" W, 35.726 feet to a point, thence S 20°17'27" W, 44.330 feet to a point, thence S 24°45'08" W, 192.863 feet to a point, thence S 34°57'41" E, 67.486 feet to a point, thence S 60°51'23" W, 75.271 feet to a point, thence S 06°19'31" E, 68.555 feet to a point, thence S 55°58'04" W, 59.997 feet to a point, thence N 41°42'04" W, 79.735 feet to a point, thence N 76°39'37" W, 43.788 feet to a point, thence S 07°30'00" W, 52.550 feet to a point, thence N 69°58'49" W, 81.366 feet to a point, thence S 13°27'11" W, 61.049 feet to a point, thence S 61°57'54" W, 99.604 feet to a point, thence N 73°45'17" W, 104.855 feet to a point, thence S 26°01'00" W, 26.307 feet to a point, thence S 21°04'04" E, 106.137 feet to a point, thence S 80°50'13" W, 159.115 feet to a point, thence N 23°33'31" W, 58.896 feet to a point, thence S 41°31'36" W, 38.726 feet to a point, thence S 23°48'14" W, 146.375 feet to a point, thence S 11°24'10" W, 66.812 feet to a point, thence S 40°42'14" W, 79.109 feet to a point, thence N 40°30'30" W, 84.422 feet to a point, thence N 31°35'32" W, 39.460 feet to a point, thence S 73°22'17" W,

142.075 feet to a point, thence S 45°49'56" W, 20.740 feet to a point, thence S 06°58'14" E, 72.140 feet to a point, thence S 41°48'37" W, 151.098 feet to a P. K. nail in the center line of Lebanon Road Bridge over Irvin Creek, thence with the center line of Lebanon Road N 29°23'36" W, 316.689 feet to a P. K. nail, thence N 12°59'05" W, 241.947 feet to a P. K. nail thence N 08°16'58" W, 494.139 feet to a P. K. nail, thence N 08°34'33" W, 512.825 feet to a P. K. nail, thence N 19°13'38" W, 921.266 feet to a P. K. nail, thence N 75°28'48" E, 1426.623 feet leaving Lebanon Road to an existing iron pipe, thence N 28°10'02" E, 958.407 feet to an existing iron pipe thence N 03°46'56" E, 639.228 feet to an existing iron pipe, thence N 41°43'33" E, 375.464 feet to an existing iron pipe, thence N 41°37'31" E, 1113.354 feet to a nail in the center line of Lawyer's Road, thence with Lawyer's Road S 51°13'29" E, 188.760 feet to a P. K. nail in Lawyer's Road, thence S 62°58'29" E, 336.600 feet to a P. K. nail in Lawyer's Road, thence S 80°45'08" E, 319.101 feet to an existing iron pipe on the North side of Lawyer's Road, thence S 45°55'36" E, 332.834 feet crossing Lawyer's Road, to an existing iron pipe, thence S 45°49'40" E, 841.894 feet to an existing iron pipe, thence S 64°32'32" E, 363.165 feet to an existing iron pipe, thence S 60°27'11" E, 221.526 feet to an existing iron pipe, thence S 45°30'59" E, 359.190 feet to an existing iron pipe, thence S 35°28'28" E, 391.810 feet to an existing iron pipe, thence S 35°50'56" W, 1610.176 feet to an existing iron pipe, thence S 51°26'51" E, 45.721 feet to a monument on the South bank of Irvin Creek, thence N 73°18'45" E, 468.924 feet to a monument on the Northwest side of Irvin Creek, thence N 61°42'16" E, 849.956 feet to a monument on the North bank of Irvin Creek, thence S 65°53'21" E, 364.440 feet to a monument on the South side of Irvin Creek, thence N 25°04'41" E, 322.571 feet to an existing iron pipe, thence N 63°49'02" E, 1165.300 feet to an existing iron pipe, thence N 07°57'10" W, 878.413 feet to a monument on the South side of Lawyer's Road, thence N 15°03'56" W, 61.492 feet crossing Lawyer's Road to a monument, thence N 08°29'01" W, 985.862 feet to an existing iron pipe, thence N 81°50'30" W, 252.291 feet to an existing iron pipe, thence N 02°46'55" W, 677.817 feet to an existing iron pipe, thence N 58°25'10" W, 245.915 feet to an existing iron pipe, thence N 55°53'07" W, 575.500 feet to an existing iron pipe, thence N 16°25'19" W, 693.142 feet to an existing iron pipe, thence N 65°40'49" E, 826.875 feet to an existing iron pipe, thence N 00°59'13" W, 712.620 feet to an existing iron pipe, thence N 11°36'28" E, 1651.348 feet to a monument, thence S 85°23'26" E, 1201.130 feet to an existing iron pipe, thence S 87°58'28" E, 979.534 feet to an existing iron pipe, thence N 45°06'54" E, 570.078 feet to a monument on the South side of Wilgrove-Mint Hill Road, thence N 19°02'28" W, 142.699 feet to a monument on the North side of Wilgrove - Mint Hill Road, thence N 42°25'34" E, 2112.345 feet to an existing iron pipe, thence N 34°22'42" W, 1277.444 feet to an existing iron pipe, thence N 53°35'58" E, 709.363 feet to an existing iron pipe, thence N 69°17'18" E, 65.389 feet to an existing iron pipe, thence N 02°41'30" E, 2156.878 feet to a monument, thence S 83°55'49" E, 2484.960 feet to an existing iron pipe, thence N 60°26'30" E, 172.368 feet to a nail in the center line of Lake Road, thence S 53°57'29" E, 76.840 feet to an existing iron pipe, thence N 46°36'53" E, 207.010 feet to a monument, thence N 82°41'33" E, 782.061 feet to an existing iron pipe, thence N 75°55'18" E, 211.018 feet to a monument, thence N 81°09'26" E, 507.340 feet to an existing iron pipe, thence

S 31°51'31" E, 14.452 feet to an existing iron pipe, thence N 57°41'11" E, 199.924 feet to an existing iron pipe, thence S 32°15'48" E, 161.473 feet to an existing iron pipe, thence S 18°37'44" E, 174.939 feet to an existing iron pipe, thence S 04°43'51" E, 49.763 feet to a P. K. nail in the center line of Truelight Church Road, thence with the center line of Truelight Church Road the following courses, S 85°12'45" W, 23.302 feet to a P. K. nail, thence S 82°49'47" W, 126.058 feet to a P. K. nail, thence S 32°21'08" E, 357.084 feet leaving Truelight Church Road to an existing iron pipe, thence, S 31°29'10" E, 661.318 feet to an existing axle in the center of the creek, thence S 32°33'44" E, 1336.193 feet to an existing iron pipe, thence S 31°48'42" E, 699.649 feet to an existing iron pipe, thence N 55°10'48" E, 139.316 feet to an existing iron pipe, thence S 35°53'19" E, 532.135 feet to a monument on the Northwest side of Blair Road, thence S 11°10'05" E, 113.133 feet to a monument on the Southeast side of Blair Road, thence S 61°17'37" E, 141.466 feet to an existing iron pipe, thence S 36°58'59" E, 473.346 feet to an existing iron pipe, thence S 36°38'45" E, 421.893 feet to an existing iron pipe, thence S 37°12'23" E, 851.078 feet to a monument, thence S 84°12'51" E, 1317.463 feet to an existing iron pipe, thence S 00°22'52" W, 1467.490 feet to an existing iron pipe, thence S 61°37'43" W, 1003.357 feet to an existing iron pipe, thence S 05°44'22" E, 492.384 feet to an existing iron pipe, thence N 75°06'03" E, 418.531 feet to a monument, thence S 36°18'45" E, 184.670 feet to a monument, thence S 36°58'45" E, 356.500 feet to an existing iron pipe, thence N 53°09'15" E, 184.732 feet to an existing iron pipe, thence S 01°36'37" W, 604.496 feet to an existing iron pipe, thence S 61°35'52" W, 91.976 feet to an existing iron pipe, thence S 04°46'44" E, 401.201 feet to an existing iron pipe, thence S 60°50'42" E, 148.379 feet to an existing iron pipe, thence N 64°03'37" E, 1186.975 feet to an existing iron pipe, thence N 83°28'27" E, 540.118 feet to a P. K. nail in the center line of Bartlett Road, thence S 09°45'32" W, 550.606 feet to an existing iron pipe, thence S 89°43'30" E, 1469.411 feet to an existing iron pipe, thence S 56°51'25" W, 578.416 feet to an existing iron pipe, thence S 09°57'43" W, 575.500 feet to a monument, thence S 18°26'53" E, 429.750 feet to an existing iron pipe, thence S 86°05'36" W, 210.365 feet to an existing iron pipe, thence S 04°39'55" E, 199.855 feet to an existing iron pipe, thence S 84°18'40" W, 49.240 feet to an existing iron pipe, thence S 08°33'39" E, 416.757 feet to a P. K. nail in the center line of Brief Road, thence S 08°04'55" E, 198.300 feet to an existing iron pipe, thence S 09°01'18" E, 1083.787 feet to a monument, thence S 83°07'24" W, 133.016 feet to an existing iron pipe, thence S 44°23'32" W, 422.900 feet to a monument, thence S 06°59'23" W, 370.795 feet to a monument, thence S 04°01'53" W, 229.231 feet to a monument, thence S 21°34'45" E, 407.751 feet to a monument, thence S 01°23'58" E, 285.269 feet to a monument on the North side of Fairview Road, thence S 05°20'24" E, 66.866 feet to a monument on the South side of Fairview Road, thence S 02°29'53" E, 916.031 feet to a monument, thence N 72°40'51" W, 909.924 feet to a monument, thence S 13°09'38" E, 763.078 feet to a monument, thence S 06°54'45" W, 461.166 feet to a monument, thence S 02°02'51" E, 258.372 feet to a monument, thence S 04°16'50" E, 559.166 feet to a monument, thence S 08°56'15" E, 396.342 feet to a monument on the North side of Long Road, thence N 82°00'28" W, 377.673 feet to a monument on the South side of Long Road, thence S 35°51'41" West, 702.202 feet to a tack in an existing cedar stake, thence N 54°43'24" W, 101.544 feet to an existing iron pipe, thence N

30°14'50" W, 369.602 feet to a monument thence S 87°38'10" W, crossing Allen Black Road, 858.000 feet to a monument, thence N 39°36'50" W, 462.000 feet to a monument, thence S 70°23'11" W, 1650.000 feet to a monument, thence S 09°27'13" W, 1389.910 feet to a monument, thence S 04°40'08" W, 939.740 feet to a monument, thence S 28°14'15" W, 1250.372 feet to an existing iron pipe, thence S 09°02'17" E, 385.990 feet to a monument, thence S 12°50'15" W, 396.133 feet to a monument, thence S 11°38'36" W, 390.264 feet to a monument, thence S 09°35'48" W, thence 488.220 feet to a P.K. nail in the center line of Lawyer's Road Bridge over Goose Creek, thence S 06°33'58" W, 753.398 feet to a monument, thence N 80°35'25" W, 1815.355 feet to an existing iron pipe, thence S 22°12'11" W, 835.567 feet to a monument, thence N 54°22'45" W, 349.636 feet to a monument, thence S 09°32'00" W, 1120.086 feet to an existing iron pipe, thence S 22°02'00" W, 697.070 feet to a monument, thence N 40°28'00" W, 788.060 feet to a monument, thence N 09°02'00" E, 380.000 feet to a monument, thence S 80°32'00" W, 390.000 feet to a point, thence S 48°32'00" W, 118.000 feet to a point, thence N 37°58'00" W, 100.000 feet to a point, thence N 72°59'00" W, 287.674 feet to a point, thence S 20°43'48" W, 404.645 feet to a monument, thence S 51°15'38" W, 449.681 feet to a monument, thence S 89°48'01" W, 148.923 feet to a point, thence S 66°01'05" W, 231.480 feet to a point, thence S 32°06'58" W, 484.063 feet to a monument, thence S 08°05'06" W, 276.141 feet to a monument, thence S 72°05'58" W, 364.894 feet to a monument, thence N 20°01'56" W, 1875.479 feet to a P. K. nail in the center line of Thompson Road, thence N 05°19'12" E, 493.969 feet to an existing iron pipe, thence N 86°04'03" W, 992.218 feet to a monument, thence S 06°49'48" E, 1676.086 feet to a monument, thence N 71°49'58" W, 486.003 feet to a monument, thence N 72°47'49" W, 425.695 feet to a monument, thence N 78°52'03" W, 436.535 feet to an existing iron pipe, thence N 18°39'37" W, 1578.142 feet to an existing iron pipe, thence N 54°21'10" E, 699.536 feet to a monument, thence N 37°34'44" W, 2597.780 feet to an existing iron pipe, thence S 54°39'23" W, 532.551 feet to an existing iron pipe, thence N 39°42'40" W, 557.559 feet to an existing iron pipe, thence N 37°28'49" W, 71.233 feet to an existing iron pipe, thence N 56°08'38" W, 298.361 feet to an existing iron pipe, thence N 58°40'32" W, 260.582 feet to an existing iron pipe, thence N 63°44'53" W, 128.974 feet to an existing iron pipe, thence N 83°05'46" W, 297.981 feet to an existing iron pipe, thence N 56°28'42" W, 63.463 feet to a monument, thence N 56°23'56" W, crossing Matthews - Mint Hill Road, 340.500 feet to an existing old iron pipe, thence S 51°08'04" W, 1016.815 feet to an existing old iron pipe, the point of beginning."

Sec. 2. This act becomes effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1973.

S. B. 467

CHAPTER 180

AN ACT TO INCREASE THE COMPENSATION OF THE CHAIRMAN AND MEMBERS OF THE BOARD OF COMMISSIONERS OF BERTIE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The compensation payable to the chairman of the Board of County Commissioners of Bertie County shall be one hundred twenty-five dollars (\$125.00) per month. The compensation payable to each of the other four members of the Board of County Commissioners of Bertie County shall be one hundred dollars (\$100.00) per month.

Sec. 2. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 12th day of April, 1973.

S. B. 470

CHAPTER 181

AN ACT TO AMEND CHAPTER 383 OF THE 1955 SESSION LAWS, RELATING TO THE PURCHASE OF SUPPLIES, MATERIALS, EQUIPMENT AND CONSTRUCTION CONTRACTS BY THE CITY OF HIGH POINT.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 383 of the 1955 Session Laws be and the same is hereby amended by striking therefrom the words and figure "two thousand five hundred dollars (\$2,500)" and inserting in lieu thereof the words and figure "five thousand dollars (\$5,000)".

Sec. 2. Section 2 of Chapter 383 of the 1955 Session Laws be and the same is hereby amended by striking therefrom the words and figure "two thousand five hundred dollars (\$2,500)" and inserting in lieu thereof the words and figure "five thousand dollars (\$5,000)".

Sec. 3. That paragraph three of Section 2 of Chapter 383 of the 1955 Session Laws be and the same is hereby amended by inserting between the words "cash" and "or" the words "or a cashier's check".

Sec. 4. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 5. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1973.

S. B. 485

CHAPTER 182

AN ACT TO BRING GASTON COUNTY UNDER THE PROVISIONS OF G.S. 15-12 RELATING TO UNCLAIMED BICYCLES AND OTHER PERSONAL PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. Section 2 1/2 of Chapter 807 of the 1965 Session Laws is hereby amended by deleting from the second line thereof the word "Gaston,".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1973.

S. B. 486

CHAPTER 183

AN ACT TO MAKE G.S. 20-162.2 RELATING TO REMOVAL OF UNAUTHORIZED VEHICLES FROM PRIVATE LOTS APPLICABLE TO GASTON COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-162.2(c) is hereby amended by inserting immediately following the word "Craven," the word "Gaston".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1973.

S. B. 571

CHAPTER 184

AN ACT TO AMEND CHAPTER 163 OF THE GENERAL STATUTES CONCERNING OATHS TAKEN BY VOTERS AND REGISTRANTS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 163 of the General Statutes is hereby amended by adding thereto a new section to be numbered G.S. 163-79 and to read as follows:

"§ 163-79. *Alternate oaths by voters and registrants.*—In the event any person taking any of the oaths in G.S. 163-72, G.S. 163-74(a), G.S. 163-74(b), G.S. 163-74(c), and G.S. 163-78(b) objects to the phrase 'so help me, God' appearing at the end of said oaths, the words 'I do so affirm' may be substituted therefor."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1973.

H. B. 438

CHAPTER 185

AN ACT TO AMEND G.S. 18A-17(14) TO AUTHORIZE ADDITIONAL ABC FUNDS FOR LAW ENFORCEMENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 18A-17(14) is amended by deleting from the second line thereof the words and figures "ten percent (10%)" and inserting in lieu thereof the words and figures "fifteen percent (15%)".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1973.

H. B. 874

CHAPTER 186

AN ACT TO EMPOWER A TRUSTEE OF A TRUST IN THE STATE OF NORTH CAROLINA TO APPOINT AN ANCILLARY TRUSTEE TO TAKE TITLE TO PROPERTY IN A STATE OR STATES OTHER THAN THE STATE OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. In the event that any property in which a legal or beneficial interest is or may become a part of the assets of a trust whether by purchase, foreclosure, testamentary disposition, transfer inter vivos or in any other manner, in a state or states other than the State of North Carolina or in the District of Columbia or any possession of the United States, the North Carolina trustee is empowered to name an individual or corporate trustee qualified to act in any such other jurisdiction in connection with the property situated therein as ancillary trustee of such property and require such security as may be designated by the North Carolina trustee. The ancillary trustee so appointed shall have all rights, powers, discretions, responsibilities and duties as are delegated to it by the North Carolina trustee, within the limits of the authority possessed by the North Carolina trustee, but shall exercise and discharge the same subject to such limitations or directions of the North Carolina trustee as shall be specified in the instrument evidencing the appointment. The ancillary trustee shall be answerable to the North Carolina trustee for all monies, assets or other property entrusted to it or received by it in connection with the administration of the trust. The North Carolina trustee may remove such ancillary trustee and may or may not appoint a successor at any time or from time to time as to any or all of the assets. Provided, however, that if the ancillary trustee is to be appointed in any jurisdiction that requires any kind of procedure or judicial order for the appointment of such an ancillary trustee or to authorize it to act, the North Carolina trustee and the ancillary trustee must conform to all such requirements.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1973.

S. B. 404

CHAPTER 187

AN ACT TO CREATE WARDS IN THE TOWN OF PLYMOUTH.

The General Assembly of North Carolina enacts:

Section 1. The territory within the corporate limits of the Town of Plymouth is hereby divided into three wards as follows:

WARD ONE:

BEGINNING in the center line of Monroe Street extended where same intersects the southern bank of the Roanoke River, and running thence along the center line of said street southwardly to its intersection with the center line of Main Street; thence eastwardly with the center line of said street to its intersection with the center line of Washington Street; thence southwardly with the center line of said Washington Street to its intersection with the center line of the Seaboard Coast Line Railroad; thence northeastwardly with the center line of said railroad to where it intersects the center line of East Main Street; thence eastwardly and southwardly with the center line of said Main

Street to where same intersects the eastern town limits; thence northwardly and westwardly and northwardly with the town limits line to the Roanoke River; thence westwardly along the southern bank of said river to the beginning.

WARD TWO

BEGINNING where the center line of Main Street intersects the center line of Monroe Street and running thence southwardly along the center line of Monroe Street to its intersection with the center line of U. S. Highway No. 64; thence southwestwardly with the center line of said U. S. Highway No. 64 to where it intersects the town limits line; thence running in a generally easterly direction with the town limits line to a point where the same intersects the center line of East Main Street extended; thence running westwardly with said center line of East Main Street to where same intersects the center line of the Seaboard Coast Line Railroad; thence running southwestwardly with the center line of said railroad to where same intersects the center line of Washington Street; thence northwardly along the center line of said Washington Street to its intersection with the center line of Main Street; thence westwardly with the said center line of Main Street to its intersection with the center line of Monroe Street, the point of beginning.

WARD THREE

BEGINNING at a point on the southern bank of Roanoke River where same is intersected by the center line of Monroe Street extended; thence running southwardly along the center line of said Monroe Street to where same intersects the center line of U. S. Highway No. 64; thence running southwestwardly along the center line of said U. S. Highway No. 64 to where the same intersects the town limits line; thence running with the town limits line generally northwestwardly to where same intersects the center line of Welch's Creek; thence along the center line of said Welch's Creek as it meanders generally northeastwardly to where same intersects the southern edge of the Roanoke River; thence eastwardly along the southern edge of said Roanoke River to where same intersects the center line of Monroe Street extended, the point of beginning.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of April, 1973.

S. B. 452

CHAPTER 188

AN ACT TO PROVIDE FOR VOLUNTARY ANNEXATION BY THE TOWN OF KURE BEACH OF AREAS, TERRITORIES, OR SUBDIVISIONS NOT CONTIGUOUS TO THE MUNICIPAL BOUNDARIES OF THE TOWN OF KURE BEACH.

Whereas, Article 36 of Chapter 160 of the General Statutes of North Carolina contains no provision for the annexing of areas, territories or subdivisions not contiguous to the municipal boundaries of the Town of Kure Beach; and

Whereas, it would be in the interest of the public health, safety and welfare of the inhabitants of said Town and would permit a more orderly growth of the municipal boundaries of said Town to allow the annexation of noncontiguous

areas, territories or subdivisions by petition of the property owners who desire that their property be annexed; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. That the owner or owners of any area, territory or subdivision within the boundaries of New Hanover County but not within the boundaries or extraterritorial jurisdiction of any other municipality, whose property is not contiguous to the municipal boundaries of the Town of Kure Beach, may, by petition directed to the Town Council of the Town of Kure Beach, request that the property described in the petition be annexed and made a part of the Town of Kure Beach as hereinafter set out; provided any property annexed as herein provided must be located at the closest point not more than three miles from the Town of Kure Beach municipal limits wherein is located and situated the Town Hall.

Sec. 2. That said petition shall be directed to the Town Council of the Town of Kure Beach and shall contain:

(1) The names of the owners of the real property for which a request to annex is made.

(2) A description of the area to be annexed by metes and bounds.

(3) The signatures of all property owners of the area, territory or subdivision requesting annexation.

In the case of annexing a subdivision under this act, the petition must be signed by all owners of property within the subdivision, provided nothing herein shall be construed to authorize the annexation of a portion of a subdivision.

Upon receipt of the petition, the Town Council of the Town of Kure Beach shall cause the clerk of the municipality to investigate the sufficiency thereof and to certify the results of his investigation.

Upon receipt of the certification and petition, the Town Council shall fix dates for two public hearings on the question of annexation and shall cause notice of the public hearings to be published twice in a newspaper having general circulation in the municipality at least 10 days prior to the date of the first public hearing, and published in like manner preceding the second public hearing. The second public hearing shall be held at least 20 days after the first public hearing. At such public hearings, all residents of New Hanover County opposing or favoring the annexation or alleging an error in the petition shall be given an opportunity to be heard. The Town Council shall then determine whether the petition meets the requirements of this act.

Upon a further finding and determination by the Town Council that:

(1) The public health, safety and welfare of the inhabitants of the Town of Kure Beach, as well as those of the area, territory or subdivision requesting such annexation, will best be served by such annexation, and

(2) The Town of Kure Beach will be able to provide the same services to the annexed area, territory or subdivision in the same manner in which other areas within the municipal boundaries of said Town are served. The Town Council of the Town of Kure Beach may adopt an ordinance annexing that area described in the petition; provided the ordinance annexing the area, territory or subdivision shall be passed at each meeting of the Town Council where a public hearing is held as hereinbefore provided. From and after the effective date of said ordinance, which date shall not be less than 90 days from and after the final passage of said ordinance, the area, territory or subdivision and its citizens shall

be subject to all debts, laws, ordinances and regulations in force in said Town of Kure Beach and shall be entitled to the same benefits and privileges of other parts of said Town. The newly annexed area, territory or subdivision shall be subject to Town taxes for the fiscal year following the effective date of annexation.

Sec. 3. The Town Council of the Town of Kure Beach may make said annexation contingent on such conditions as it may desire in order to insure that the area, territory or subdivision proposed to be annexed will not receive preferential treatment.

Sec. 4. The Town Council, in its discretion, may charge in any contiguous area, territory or subdivision annexed water or sewer rates in excess of those charged within the municipal limits wherein is located the Town Hall, and from time to time the council shall review the expenses related to any noncontiguous area to determine that said expenses are not in excess of taxes and revenues derived therefrom.

Sec. 5. Any area, territory or subdivision annexed pursuant to this act shall cease to be noncontiguous for all intents and purposes when and in the event said area shall touch the municipal limits of the Town of Kure Beach pursuant to the extension of the boundaries of said Town pursuant to Article 36, Chapter 160 of the General Statutes of North Carolina.

Sec. 6. Any area, territory or subdivision annexed pursuant to this act shall not be included in that area of the municipal boundaries used for determining any extraterritorial jurisdiction of the Town of Kure Beach and further shall not be considered within the municipal boundaries for the purposes of defining an area as contiguous to the Town limits within the provisions of Part 2 or Part 3 of Article 36 of Chapter 160 of the General Statutes of North Carolina with reference to further annexation unless and until the area, territory or subdivision annexed pursuant hereto shall, by extension of the municipal boundaries pursuant to Article 36 of Chapter 160 of the General Statutes of North Carolina, touch and become a part of the municipal boundaries of the Town of Kure Beach wherein is located the Town Hall.

Sec. 7. The total area of all noncontiguous portions of the Town annexed pursuant to this act shall at no time exceed twenty-five percent (25%) of the total area of the Town of Kure Beach wherein is located the Town Hall.

Sec. 8. This act shall be supplemental and in addition to any other methods or procedure for annexation heretofore available or hereafter provided for the Town of Kure Beach.

Sec. 9. If any clause, sentence, paragraph, subsection, section or any part of this act shall for any reason be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such judgment shall not affect, impair or invalidate the remainder of this act but shall be confined in its operation to the part thereof directly involved in said judgment.

Sec. 10. All laws and clauses of laws in conflict with this act are repealed.

Sec. 11. This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of April, 1973.

S. B. 421

CHAPTER 189

AN ACT TO RATIFY, APPROVE, CONFIRM AND VALIDATE ALL PROCEEDINGS TAKEN BY THE CITY COUNCIL OF THE CITY OF BESSEMER CITY IN CONNECTION WITH THE AUTHORIZATION OF \$900,000 SANITARY SEWER BONDS OF SAID CITY AND THE CALLING AND HOLDING OF AN ELECTION THEREON.

The General Assembly of North Carolina enacts:

Section 1. All proceedings heretofore taken by the City Council of the City of Bessemer City in connection with the authorization of \$900,000 Sanitary Sewer Bonds of said City and the calling and holding of an election upon the question of approving or disapproving the issuance of such bonds, the indebtedness to be incurred by the issuance thereof and the levy of a tax for the payment thereof are hereby ratified, approved, confirmed and in all respects validated, notwithstanding that the application of such City for approval of the Bonds shall have been filed with the Local Government Commission fewer than the forty days prior to such election required by Section 159-7 of the General Statutes of North Carolina, and such bond election shall not be rendered invalid thereby.

Sec. 2. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed to the extent of any such conflict.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of April, 1973.

S. B. 460

CHAPTER 190

AN ACT TO AMEND G.S. 160A-226 TO AUTHORIZE THE CITY OF SALISBURY TO ASSESS THE COST OF EXTENDING WATER AND SEWER LINES AGAINST PROPERTY TO BE BENEFITED BY SUCH LINES ON AN AVERAGE COST BASIS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-226 is hereby amended by adding at the end thereof the following:

"In lieu of assessing the total actual cost of a particular project as herein provided, the governing body may annually between the first days of January and July of each year, determine the average cost of installing water and sewer mains or lines and on the basis of such determination may make assessments of such average cost during the following fiscal year beginning July 1. The average cost of such installation shall include the cost of the particular size and material of lines completed during the preceding calendar year. It may also include the anticipated increase in labor and materials costs during the preceding five calendar years. The assessment of the average cost of such line shall not be made until after the particular assessment project has been completed. The purpose of this act is to distribute more equitably the cost of the installation of water and sewer lines throughout the city; to permit a property owner to know in advance what the cost of installation of water or sewer line benefiting his property will be; and to permit the more expeditious assessment of cost against property after completion of the installation of such lines."

Sec. 2. The actual cost of the acquisition of right-of-way may also be

assessed as a part of the cost of an individual project. If the right-of-way costs have not been determined and assessed with the assessment of the average installation costs at the time of the completion of the project such costs may be assessed separately when they have been determined.

Sec. 3. This act shall apply only to the City of Salisbury.

Sec. 4. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 5. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 16th day of April, 1973.

H. B. 416

CHAPTER 191

AN ACT TO AMEND G.S. 20-11(b) TO PROVIDE FOR LEARNER'S PERMIT AT AGE 15.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-11(b) as same appears in the 1971 Cumulative Supplement to Volume 1C of the General Statutes is hereby amended by striking the words "and one-half" appearing in line 11 thereof, immediately after the word "fifteen" and immediately before the word "years".

Sec. 2. Provided a driver who holds a learner's permit only shall not be deemed a male operator under age 25 for the purpose of determining the insurance premium rate for persons insured under automobile property damage and bodily injury liability insurance policies.

Sec. 3. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 16th day of April, 1973.

H. B. 495

CHAPTER 192

AN ACT TO AMEND G.S. 55A-20 WITH REGARD TO THE DIRECTORS OF NON-PROFIT CORPORATIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 55A-20(a) is hereby rewritten to read as follows:

"The number constituting the board of directors of a corporation shall be not less than three. The number constituting the initial board of directors shall be fixed by the articles of incorporation. In the absence of a provision in the articles of incorporation, the charter, or the bylaws fixing the number of directors, the number shall be the same as that fixed in the articles of incorporation for the initial board of directors, subject to the provisions of this section. The articles of incorporation, the charter, or the bylaws may provide for a maximum and minimum number of directors, and, if so, shall designate the manner in which such number shall from time to time be determined. If the fixing of a maximum and minimum number of directors is authorized and the corporation has members entitled to vote for directors, the articles of incorporation, the charter, or the bylaws may provide that any directorships not filled by the members,

shall be treated as vacancies to be filled by and in the discretion of the board of directors."

Sec. 2. G.S. 55A-20(c) is hereby amended as follows:

(1) By inserting in line two, immediately after the word "members", the words "entitled to vote for directors";

(2) By inserting in line six, immediately after the word "vote", the words "for directors".

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of April, 1973.

H. B. 511 CHAPTER 193

AN ACT TO PROHIBIT THE ACCUMULATION OF POWELL BILL FUNDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-41.3 is hereby amended by adding a new paragraph following the second paragraph to read as follows:

"No funds allocated to municipalities pursuant to G.S. 136-41.1 and G.S. 136-41.2 shall be permitted to accumulate for a period greater than permitted by this section. Interest on accumulated funds shall be used only for the purposes permitted by the provisions of G.S. 136-41.3. Any municipality having accumulated an amount greater than the sum of the past ten allocations made, shall have an amount equal to such excess deducted from the next allocation after receipt of the report required by this section. Such deductions shall be carried over and added to the amount to be allocated to municipalities for the following year."

Sec. 2. This act shall become effective January 1, 1974.

In the General Assembly read three times and ratified, this the 16th day of April, 1973.

H. B. 580 CHAPTER 194

AN ACT TO AMEND THE CHARTER OF THE CITY OF WILMINGTON TO INCREASE INTEREST RATE ON ASSESSMENTS AND WATER AND SEWER CONNECTIONS WHEN PAID BY INSTALLMENTS.

The General Assembly of North Carolina enacts:

Section 1. Section 17.18 of the Charter of Wilmington, as it appears in Section 1 of Chapter 1046, Session Laws of 1963, is hereby amended by deleting from line 3 the words and figures "of six percent (6%) per annum", and inserting in lieu thereof the words "to be established by the City Council not to exceed the legal rate authorized by the General Statutes of North Carolina,".

Sec. 2. Section 21.18 and Section 21.19 of the Charter of Wilmington, as it appears in Section 1 of Chapter 1046, Session Laws of 1963, are hereby amended by deleting the words and figures "of six percentum (6%) per annum" in each section, and inserting in lieu thereof in each section the words "to be

established by the City Council not to exceed the legal rate authorized by the General Statutes of North Carolina.”.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of April, 1973.

H. B. 612

CHAPTER 195

AN ACT TO PROHIBIT THE PRACTICE OF PHRENOLOGY, PALMISTRY, FORTUNE-TELLING OR CLAIRVOYANCE IN HENDERSON COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-401.5 is hereby amended by inserting in the third paragraph thereof, immediately following the word “Haywood” and immediately prior to the word “Hertford”, the word “Henderson”.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of April, 1973.

H. B. 631

CHAPTER 196

AN ACT TO PROVIDE FOR THE LICENSING BY THE DEPARTMENT OF AGRICULTURE OF LIVESTOCK DEALERS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 106 of the General Statutes is hereby amended by inserting therein a new Article to be designated as Article 35A and to read as follows:

“Article 35A.

“Livestock Dealers’ Licensing Act.

“§ 106-418.1. *Definitions.*—When used in this Article,

(1) the term ‘Commissioner’ means the Commissioner of Agriculture of North Carolina;

(2) the term ‘livestock’ means cattle, sheep, goats, swine, horses and mules;

(3) the term ‘livestock dealer’ means any person who buys livestock (i) for his own account for purposes of resale, or (ii) for the account of others; and

(4) the term ‘person’ means an individual, partnership, corporation, association, or other legal entity.

“§ 106-418.2. *Exemptions.*—The provisions of this Article shall not apply to a person who offers for sale or trade only livestock which he has raised or livestock which he owns or has had in his possession for a period of 30 days or longer or who has had the livestock grown under contract, and is not engaged in the business of buying, selling, trading, or negotiating the transfer of livestock. Neither shall this Article apply to a livestock market operator conducting sales in compliance with the Public Livestock Markets Act. (General Statutes Chapter 106, Article 35).

“§ 106-418.3. *Prohibited conduct.*—It shall be unlawful for any person to:

(1) carry on or conduct the business of a livestock dealer without a current

valid license issued by the North Carolina Department of Agriculture under the provisions of this act;

(2) fail to keep the records required by G.S. 106-418.6.

“§ 106-418.4. *Licenses.*—(a) Any person desiring to be licensed as a livestock dealer shall make application to the Commissioner. Such application shall contain the address, both business and personal, of the applicant. No financial information shall be required from the applicant.

Whenever an applicant has complied with this Article, the Commissioner, shall issue to such applicant a license which shall entitle the licensee to engage in the business of livestock dealer for a period of one year, unless such license is sooner suspended, or revoked in accordance with the provisions of this Article.

The license may be renewed annually by written request to the Commissioner on a form prepared by the Department of Agriculture which form shall require only the name and current address of the license. No renewal fee shall be charged.

(b) The Commissioner may suspend for a period not to exceed 120 days the license of any livestock dealer whom the Commissioner finds has violated G.S. 106-418.3(2). For a second violation of G.S. 106-418.3(2) within a period of two years, the Commissioner may revoke a dealer's license.

(c) The Commissioner may refuse to issue a license to any person who has (1) within five years of his application therefor, been finally adjudicated as having on two or more occasions violated the provisions of G.S. 106-418.3(1) or (2) on three or more occasions within five years of his application therefor been finally adjudicated as violating G.S. 106-418.3(2).

(d) All proceedings relative to the suspension, revocation, or refusal of a license shall be conducted pursuant to the provisions of Chapter 150 of the General Statutes.

“§ 106-418.5. Any hearing required or permitted to be held pursuant to this Article may be conducted by the Commissioner or his delegate and his decision shall be treated for all purposes as that of the Commissioner.

“§ 106-418.6. *Maintenance of records.*—Every livestock dealer shall keep complete records for at least one year of all transactions involving livestock and permit any authorized agent of the Commissioner to have access to and to copy all records relating to such transactions. Such records shall consist of the approximate age, breed and species of the livestock, the date of sale, name and address of persons from whom and to whom livestock are sold and traded.

“§ 106-418.7. Any person who violates G.S. 106-418.3(1) may be fined not in excess of one hundred dollars (\$100.00) or imprisoned for not in excess of 30 days. For a second or subsequent violation of G.S. 106-418.3(1), a person may be fined not in excess of five hundred dollars (\$500.00) or imprisoned for not in excess of six months, or both fined and imprisoned.

“§ 106-418.8. *Short title.*—This Article may be cited as the ‘Livestock Dealer Licensing Act’.”

Sec. 2. This act shall become effective 30 days after ratification.

In the General Assembly read three times and ratified, this the 16th day of April, 1973.

H. B. 669

CHAPTER 197

AN ACT TO CORRECT ERRONEOUS INTERNAL REFERENCES IN ARTICLE 4 OF CHAPTER 165 OF THE GENERAL STATUTES RELATING TO VETERANS SCHOLARSHIP BENEFITS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 165-22(2) is hereby amended by rewriting the second line thereof to read as follows: "benefits set forth in G.S. 165-21(1) a. and d. and G.S. 165-21 (2) of".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of April, 1973.

S. B. 351

CHAPTER 198

AN ACT TO AMEND G.S. 105-333(14) TO EXCLUDE CABLE TELEVISION COMPANIES FROM THE DEFINITION OF THE TERM "PUBLIC SERVICE COMPANY".

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-333(14) is hereby amended as follows:

(1) By deleting from the fourth line thereof the words "cable television company,"; and

(2) by inserting in the tenth line thereof, immediately following the word "shall", the words "not include a cable television company, but shall".

Sec. 2. This act shall become effective on January 1, 1974.

In the General Assembly read three times and ratified, this the 16th day of April, 1973.

S. B. 371

CHAPTER 199

AN ACT AMENDING ARTICLE 9 OF CHAPTER 54 OF THE GENERAL STATUTES RELATING TO CREDIT UNIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 54-75(5) is amended by striking the first sentence therein and substituting in lieu thereof the following:

"The administrator of credit unions is authorized, empowered, and directed to fix the amount of a blanket surety bond which shall be required of each credit union official, committee member and employee, irrespective of whether such official, committee member and employee receives, pays or has custody of money or other personal property owned by a credit union or in the custody or control of the credit union as collateral or otherwise. The surety on the bond shall be a surety company authorized to do business in North Carolina."

Sec. 2. G.S. 54-75(5) is further amended by striking from the first paragraph thereof the sentence which reads as follows:

"In lieu of individual bonds, the Administrator may approve the use of a form of schedule or blanket bond which covers all boards and committee members and employees of a credit union whose duties include the receipt, payment or custody of money or other personal property for or on behalf of the credit union."

Sec. 3. G.S. 54-75(5) is further amended by striking from the second

paragraph thereof under the heading "Assets" in the 9th line thereof the figures and word "100,001 to 150,000" and substituting in lieu thereof "100,001 to 200,000".

Sec. 4. G.S. 54-86 is rewritten in its entirety to read as follows:

"The capital, deposits, undivided profits and reserve fund of the corporation may be invested in any of the following ways, and in such ways only.

1. They may be lent to the members of the corporation in accordance with the provisions of this Chapter.

2. In capital shares, obligations, or preferred stock issues of any agency or association organized either as a stock company, mutual association, or membership corporation, provided the membership or stockholdings, as the case may be, of such agency or association are confined or restricted to credit unions or organizations of credit unions, and provided the purposes for which such agency or association is organized or designed to service or otherwise assist credit union operations.

3. In obligations of the State of North Carolina or any subdivision thereof.

4. In obligations of the United States, including bonds and securities upon which payment of principal and interest is fully guaranteed by the United States.

5. They may be deposited to the credit of the corporation in savings banks, credit unions, savings and loan associations, State banks or trust companies incorporated under the laws of the State, or in national banks located therein.

6. In loans to other credit unions in an amount not to exceed twenty-five percent (25%) of the shares and unimpaired surplus of the lending credit union.

7. In an aggregate amount not to exceed twenty-five percent (25%) of the allocations to the reserve fund in any agency or association of the type described in subsection 2 hereof, provided the purposes of any such agency or association are designed too assist in establishing and maintaining liquidity, solvency, and security in credit union operations.

8. In the North Carolina Mutual Deposit Guaranty Association.

9. Guaranteed Debentures and Real Estate Investment Trusts. A credit union shall keep on deposit at interest in any such depositories as are enumerated in subsections 2, 4, and 5 of this section, so much of the reserve fund and capital stock as shall equal five percent (5%) of the total shares and deposits. The said five percent (5%) representing said deposit shall not be encumbered or in any manner pledged, hypothecated, used as collateral or in any manner used as security for a loan.

10. They may be placed on time deposits in any banks insured by the Federal Deposit Insurance Corporation or may be deposited or may be invested in any savings or building and loan association insured by the Federal Savings & Loan Insurance Corporation."

Sec. 5. G.S. 54-87(a) and (b) are rewritten to read as follows: "(a) To members. A credit union may lend to its members for such purposes and upon such security and terms as the bylaws provide and the credit committee or loan officer shall approve; provided, however, the maximum amount of any secured or unsecured loan shall be based on the amount of the unimpaired

capital and surplus of the lending credit union according to the following table:

Unimpaired Capital and Surplus	Unsecured Limit	Secured Limit
\$ 1,000	\$ 200.00	\$ 200.00
2,000	200.00	200.00
3,000	200.00	300.00
4,000	200.00	400.00
5,000	200.00	500.00
6,000	200.00	600.00
7,000	200.00	700.00
8,000	200.00	800.00
9,000	225.00	900.00
10,000	250.00	1,000.00
20,000	500.00	2,000.00
30,000	750.00	3,000.00
40,000	1,000.00	4,000.00
50,000	1,250.00	5,000.00
60,000	1,500.00	6,000.00
70,000	1,750.00	7,000.00
80,000	2,000.00	8,000.00
90,000	2,250.00	9,000.00
100,000	2,500.00	10,000.00
More than		10% of Unimpaired
100,000	2,500.00	Capital and Surplus

An endorsed note shall be deemed to be security within the meaning of this section. Irrespective of the foregoing table, a member of a credit union may be permitted to borrow up to the full amount of his shares.

(b) Loans to members of committee. The supervisory committee or Board of Directors shall appoint a substitute to act on the credit committee in the place of any member in case such member makes application to borrow money from the credit union or becomes surety for any other member whose application for a loan is under consideration."

Sec. 6. G.S. 54-88 is rewritten as follows:

"No corporation organized pursuant to this Subchapter shall directly or indirectly charge or receive any interest or discount in excess of one percent (1%) per month on the unpaid principal of loans except a minimum charge not to exceed fifty cents (50¢) may be made for any loan. The terms 'interest' and 'discount' as used in this section shall not be deemed to include charges made by a credit union for appraisals of real or personal property; attorneys fees for searching title to real property, preparing notes, deeds of trust, mortgages and closing loans; and recording fees. Rate of interest and terms of repayment shall appear on each note but the corporation may, for the purpose of making loans, discount and negotiate promissory notes and deduct in advance, from the proceeds of such loan, interest at a rate not to exceed the rate herein fixed, which shall be the legal rate for corporations organized under this Subchapter, and such deductions shall be made upon the amount of the loan from the date

thereof until the maturity of the final installment, notwithstanding that the principal amount of such loan is required to be repaid in such installments."

Sec. 7. G.S. 54-91 is rewritten to read:

"The Board of Directors of any credit union may declare dividends as its bylaws provide.

Dividends shall be paid on fully paid shares outstanding at the close of the accounting period, but shares which become fully paid by the tenth of any month of the period may be entitled to a proportional part of such dividend, calculated from the first day of the month."

Sec. 8. G.S. 54-101(a) is amended by striking therefrom the first two sentences and substituting in lieu thereof the following:

"At the first annual meeting, the members shall elect a Board of Directors of not less than five members and a Credit Committee of not less than three members to serve staggered terms of one and two years and shall hold office for those terms and until successors qualify. At each subsequent annual meeting, the members shall elect Directors and members of the Credit Committee for a term of two years. The bylaws may authorize the Board of Directors to appoint a Credit Committee, or in lieu thereof, appoint one or more loan officers to approve or disapprove loans assigned to him."

Sec. 9. G.S. 54-102(b)(7) is rewritten to read as follows:

"The Board of Directors at its first meeting after its election shall appoint a supervisory committee, (no more than one of whom may be a member of the Board of Directors and none a member of the Credit Committee) of not less than three members who shall serve for such terms as may be fixed by the bylaws; or in lieu thereof, the bylaws may authorize the Board of Directors to employ and use such clerical and auditing assistants as may be required to perform the duties required by G.S. 54-104. The Board of Directors may remove or suspend any member of the supervisory committee for neglect of duty, misfeasance, malfeasance, official misconduct, or for other good cause shown."

Sec. 10. G.S. 54-103 is rewritten in its entirety as follows:

"The Credit Committee shall have the general supervision of all loans to members. It shall be the duty of the Credit Committee to review all applications for loans, to ascertain whether the loan sought is for provident or productive purpose, and to determine whether or not the security offered, in its judgment, is sufficient and the terms proper. The Credit Committee shall meet as often as may be required after due notice has been given to each member thereof, but not less than once a month, shall keep a record of all meetings, and shall make a report to the members at the annual meetings.

The Credit Committee may appoint one or more loan officers to act under the supervision of the Credit Committee and such loan officers, when so appointed, may make loans without necessity for a meeting of or approval by any members of the Credit Committee, as provided by the bylaws.

The membership through appropriate bylaws, may authorize the Board of Directors to appoint one or more loan officers in lieu of a Credit Committee and in such instances, duties and responsibilities of the Credit Committee shall be carried out by such loan officer or officers."

Sec. 11. G.S. 54-104 is rewritten in its entirety to read as follows:

"The supervisory committee shall make or cause to be made, an annual audit, in accordance with rules and regulations promulgated by the administrator of credit unions, and shall submit a report of that audit to the Board of Directors

and a summary of the report to the members at the next annual meeting of the credit union. The supervisory committee shall make or cause to be made such supplemental audits as deemed necessary by it or as may be ordered by the administrator of credit unions. Any violation of this Subchapter or of the bylaws or of any practice of the corporation which in the opinion of the supervisory committee is unsafe, unsound, or unauthorized, shall be reported to the Board of Directors and the administrator of credit unions within seven days after its discovery."

Sec. 12. G.S. 54-106(b) is rewritten to read as follows:

"Each credit union applying on or after July 1, 1973, for a certificate to do business under the provisions of this Subchapter, shall, before receiving such certificate, pay into the office of the administrator of credit unions, a charter fee of five dollars (\$5.00) and an investigation fee of twenty dollars (\$20.00)."

Sec. 13. There is hereby created a new section to be numbered G.S. 54-87.1 and to read as follows: "In addition to the powers now authorized by this Article, credit unions organized under this Subchapter are hereby authorized to make money orders, non-negotiable sight drafts and travelers checks available to their members as their bylaws may provide."

Sec. 14. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of April, 1973.

S. B. 489

CHAPTER 200

AN ACT ENTERING INTO AND ENACTING THE SOUTHERN GROWTH POLICIES AGREEMENT.

The General Assembly of North Carolina enacts:

Section 1. The Southern Growth Policies Agreement is hereby enacted into law and entered into by this State with all other states legally joining therein in the form substantially as follows:

"Article I.

"Findings and Purposes.

(a) The party states find that the South has a sense of community based on common social, cultural and economic needs and fostered by a regional tradition. There are vast potentialities for mutual improvement of each state in the region by cooperative planning for the development, conservation and efficient utilization of human and natural resources in a geographic area large enough to afford a high degree of flexibility in identifying and taking maximum advantage of opportunities for healthy and beneficial growth. The independence of each state and the special needs of subregions are recognized and are to be safeguarded. Accordingly, the cooperation resulting from this agreement is intended to assist the states in meeting their own problems by enhancing their abilities to recognize and analyze regional opportunities and take account of regional influences in planning and implementing their public policies.

(b) The purposes of this agreement are to provide:

1. Improved facilities and procedures for study, analysis and planning of governmental policies, programs and activities of regional significance.
2. Assistance in the prevention of interstate conflicts and the promotion of regional cooperation.
3. Mechanisms for the coordination of state and local interests on a regional

basis.

4. An agency to assist the states in accomplishing the foregoing.

“Article II.

“The Board.

(a) There is hereby created the Southern Growth Policies Board, hereinafter called ‘the board’.

- (b) The board shall consist of five members from each party state, as follows:

1. The Governor.

2. Two members of the State Legislature, one appointed by the presiding officer of each house of the legislature or in such other manner as the legislature may provide.

3. Two residents of the state who shall be appointed by the Governor to serve at his pleasure.

(c) In making appointments pursuant to paragraph (b) 3, a Governor shall, to the greatest extent practicable, select persons who, along with the other members serving pursuant to paragraph (b), will make the state's representation on the board broadly representative of the several socio-economic elements within his state.

(d) 1. A Governor may be represented by an alternate with power to act in his place and stead, if notice of the designation of such alternate is given to the board in such manner as its bylaws may provide.

2. A legislative member of the board may be represented by an alternate with power to act in his place and stead, unless the laws of his state prohibit such representation and if notice of the designation of such alternate is given to the board in such manner as its bylaws may provide. An alternate for a legislative member of the board shall be selected by the member from among the members of the legislative house in which he serves.

3. A member of the board serving pursuant to paragraph (b) 3 of this Article may be represented by another resident of his state who may participate in his place and stead, except that he shall not vote: Provided that notice of the identity and designation of the representative selected by the member is given to the board in such manner as its bylaws may provide.

“Article III.

“Powers.

(a) The board shall prepare and keep current a Statement of Regional Objectives, including recommended approaches to regional problems. The Statement may also identify projects deemed by the board to be of regional significance. The Statement shall be available in its initial form two years from the effective date of this Agreement and shall be amended or revised no less frequently than once every six years. The Statement shall be in such detail as the board may prescribe. Amendments, revisions, supplements or evaluations may be transmitted at any time. An annual Commentary on the Statement shall be submitted at a regular time to be determined by the board.

(b) In addition to powers conferred on the board elsewhere in this Agreement, the board shall have the power to make or commission studies, investigations and recommendations with respect to:

1. The planning and programming of projects of interstate or regional significance.

2. Planning and scheduling of governmental services and programs which

would be of assistance to the orderly growth and prosperity of the region, and to the well-being of its population.

3. Effective utilization of such federal assistance as may be available on a regional basis or as may have an interstate or regional impact.

4. Measures for influencing population distribution, land use, development of new communities and redevelopment of existing ones.

5. Transportation patterns and systems of interstate and regional significance.

6. Improved utilization of human and natural resources for the advancement of the region as a whole.

7. Any other matters of a planning, data collection or informational character that the board may determine to be of value to the party states.

"Article IV.

"Avoidance of Duplication.

(a) To avoid duplication of effort and in the interest of economy, the board shall make use of existing studies, surveys, plans and data and other materials in the possession of the governmental agencies of the party states and their respective subdivisions or in the possession of other interstate agencies. Each such agency, within available appropriations and if not expressly prevented or limited by law, is hereby authorized to make such materials available to the board and to otherwise assist it in the performance of its functions. At the request of the board, each such agency is further authorized to provide information regarding plans and programs affecting the region, or any subarea thereof, so that the board may have available to it current information with respect thereto.

(b) The board shall use qualified public and private agencies to make investigations and conduct research, but if it is unable to secure the undertaking of such investigations or original research by a qualified public or private agency, it shall have the power to make its own investigations and conduct its own research. The board may make contracts with any public or private agencies or private persons or entities for the undertaking of such investigations or original research within its purview.

(c) In general, the policy of paragraph (b) of this Article shall apply to the activities of the board relating to its Statement of Regional Objectives, but nothing herein shall be construed to require the board to rely on the services of other persons or agencies in developing the Statement of Regional Objectives or any amendment, supplement or revision thereof.

"Article V.

"Advisory Committees.

The board shall establish a Local Governments Advisory Committee. In addition, the board may establish advisory committees representative of subregions of the South, civic and community interests, industry, agriculture, labor or other categories or any combinations thereof. Unless the laws of a party state contain a contrary requirement, any public official of the party state or a subdivision thereof may serve on an advisory committee established pursuant hereto and such service may be considered as a duty of his regular office or employment.

"Article VI.

"Internal Management of the Board.

(a) The members of the board shall be entitled to one vote each. No action of the board shall be binding unless taken at a meeting at which a majority of the

total number of votes on the board are cast in favor thereof. Action of the board shall be only at a meeting at which a majority of the members or their alternates are present. The board shall meet at least once a year. In its bylaws, and subject to such directions and limitations as may be contained therein, the board may delegate the exercise of any of its powers relating to internal administration and management to an Executive Committee or the Executive Director. In no event shall any such delegation include final approval of:

1. A budget or appropriation request.
2. The Statement of Regional Objectives or any amendment, supplement or revision thereof.
3. Official comments on or recommendations with respect to projects of interstate or regional significance.
4. The annual report.

(b) To assist in the expeditious conduct of its business when the full board is not meeting, the board shall elect an Executive Committee of not to exceed 17 members, including at least one member from each party state. The Executive Committee, subject to the provisions of this Agreement and consistent with the policies of the board, shall be constituted and function as provided in the bylaws of the board. One-half of the membership of the Executive Committee shall consist of Governors, and the remainder shall consist of other members of the board, except that at any time when there is an odd number of members on the Executive Committee, the number of Governors shall be one less than half of the total membership. The members of the Executive Committee shall serve for terms of two years, except that members elected to the first Executive Committee shall be elected as follows: One less than half of the membership for two years and the remainder for one year. The Chairman, Chairman-Elect, Vice Chairman and Treasurer of the board shall be members of the Executive Committee and anything in this paragraph to the contrary notwithstanding shall serve during their continuance in these offices. Vacancies in the Executive Committee shall not affect its authority to act, but the board at its next regularly ensuing meeting following the occurrence of any vacancy shall fill it for the unexpired term.

(c) The board shall have a seal.

(d) The board shall elect, from among its members, a Chairman, a Chairman-Elect, a Vice Chairman and a Treasurer. Elections shall be annual. The Chairman-Elect shall succeed to the office of Chairman for the year following his service as Chairman-Elect. For purposes of the election and service of officers of the board, the year shall be deemed to commence at the conclusion of the annual meeting of the board and terminate at the conclusion of the next annual meeting thereof. The board shall provide for the appointment of an Executive Director. Such Executive Director shall serve at the pleasure of the board, and together with the Treasurer and such other personnel as the board may deem appropriate shall be bonded in such amounts as the board shall determine. The Executive Director shall be Secretary.

(e) The Executive Director, subject to the policy set forth in this Agreement and any applicable directions given by the board, may make contracts on behalf of the board.

(f) Irrespective of the civil service, personnel or other merit system laws of any of the party states, the Executive Director, subject to the approval of the board, shall appoint, remove or discharge such personnel as may be necessary for

the performance of the functions of the board, and shall fix the duties and compensation of such personnel. The board in its bylaws shall provide for the personnel policies and programs of the board.

(g) The board may borrow, accept or contract for the services of personnel from any party jurisdiction, the United States, or any subdivision or agency of the aforementioned governments, or from any agency of two or more of the party jurisdictions or their subdivisions.

(h) The board may accept for any of its purposes and functions under this Agreement any and all donations, and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any state, the United States, or any other governmental agency, or from any person, firm, association, foundation, or corporation, and may receive, utilize and dispose of the same. Any donation or grant accepted by the board pursuant to this paragraph or services borrowed pursuant to paragraph (g) of this Article shall be reported in the annual report of the board. Such report shall include the nature, amount and conditions, if any, of the donation, grant, or services borrowed, and the identity of the donor or lender.

(i) The board may establish and maintain such facilities as may be necessary for the transacting of its business. The board may acquire, hold, and convey real and personal property and any interest therein.

(j) The board shall adopt bylaws for the conduct of its business and shall have the power to amend and rescind these bylaws. The board shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the party states.

(k) The board annually shall make to the Governor and legislature of each party state a report covering the activities of the board for the preceding year. The board at any time may make such additional reports and transmit such studies as it may deem desirable.

(l) The board may do any other or additional things appropriate to implement powers conferred upon it by this Agreement.

"Article VII.

"Finance.

(a) The board shall advise the Governor or designated officer or officers of each party state of its budget of estimated expenditures for such period as may be required by the laws of that party state. Each of the board's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states.

(b) The total amount of appropriation requests under any budget shall be apportioned among the party states. Such apportionment shall be in accordance with the following formula:

1. One-third in equal shares,
2. One-third in the proportion that the population of a party state bears to the population of all party states, and
3. One-third in the proportion that the per capita income in a party state bears to the per capita income in all party states.

In implementing this formula, the board shall employ the most recent authoritative sources of information and shall specify the sources used.

(c) The board shall not pledge the credit of any party state. The board may meet any of its obligations in whole or in part with funds available to it pursuant to Article VI (h) of this Agreement, provided that the board takes specific

action setting aside such funds prior to incurring an obligation to be met in whole or in part in such manner. Except where the board makes use of funds available to it pursuant to Article VI (h), or borrows pursuant to this paragraph, the board shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same. The board may borrow against anticipated revenues for terms not to exceed two years, but in any such event the credit pledged shall be that of the board and not of a party state.

(d) The board shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the board shall be subject to the audit and accounting procedures established by its bylaws. However, all receipts and disbursements of funds handled by the board shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the board.

(e) The accounts of the board shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any persons authorized by the board.

(f) Nothing contained herein shall be construed to prevent board compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the board.

"Article VIII.

"Cooperation With the Federal Government and Other Governmental Entities.

Each party state is hereby authorized to participate in cooperative or joint planning undertakings with the Federal Government, and any appropriate agency or agencies thereof, or with any interstate agency or agencies. Such participation shall be at the instance of the Governor or in such manner as state law may provide or authorize. The board may facilitate the work of state representatives in any joint interstate or cooperative federal-state undertaking authorized by this Article, and each such state shall keep the board advised of its activities in respect of such undertakings, to the extent that they have interstate or regional significance.

"Article IX.

"Subregional Activities.

The board may undertake studies or investigations centering on the problems of one or more selected subareas within the region: Provided that in its judgment, such studies or investigations will have value as demonstrations for similar or other areas within the region. If a study or investigation that would be of primary benefit to a given state, unit of local government, or intrastate or interstate area is proposed, and if the board finds that it is not justified in undertaking the work for its regional value as a demonstration, the board may undertake the study or investigation as a special project. In any such event, it shall be a condition precedent that satisfactory financing and personnel arrangements be concluded to assure that the party or parties benefited bear all costs which the board determines that it would be inequitable for it to assume. Prior to undertaking any study or investigation pursuant to this Article as a special project, the board shall make reasonable efforts to secure the undertaking of the work by another responsible public or private entity in accordance with the policy set forth in Article IV (b).

"Article X.

“Comprehensive Land Use Planning.

If any two or more contiguous party states desire to prepare a single or consolidated comprehensive land use plan, or a land use plan for any interstate area lying partly within each such state, the Governors of the states involved may designate the board as their joint agency for the purpose. The board shall accept such designation and carry out such responsibility: Provided that the states involved make arrangements satisfactory to the board to reimburse it or otherwise provide the resources with which the land use plan is to be prepared. Nothing contained in this Article shall be construed to deny the availability for use in the preparation of any such plan of data and information already in the possession of the board or to require payment on account of the use thereof in addition to payments otherwise required to be made pursuant to other provisions of this Agreement.

“Article XI.

“Compacts and Agencies Unaffected.

Nothing in this Agreement shall be construed to:

1. Affect the powers or jurisdiction of any agency of a party state or any subdivision thereof.
2. Affect the rights or obligations of any governmental units, agencies or officials, or of any private persons or entities conferred or imposed by any interstate or interstate-federal compacts to which any one or more states participating herein are parties.
3. Impinge on the jurisdiction of any existing interstate-federal mechanism for regional planning or development.

“Article XII.

“Eligible Parties; Entry Into and Withdrawal.

(a) This Agreement shall have as eligible parties the states of Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia.

(b) Any eligible state may enter into this Agreement and it shall become binding thereon when it has adopted the same: Provided that in order to enter into initial effect, adoption by at least five states shall be required.

(c) Adoption of the Agreement may be either by enactment thereof or by adherence thereto by the Governor; provided that in the absence of enactment, adherence by the Governor shall be sufficient to make his state a party only until December 31, 1973. During any period when a state is participating in this Agreement through gubernatorial action, the Governor may provide to the board an equitable share of the financial support of the board from any source available to him. Nothing in this paragraph shall be construed to require a Governor to take action contrary to the constitution or laws of his state.

(d) Except for a withdrawal effective on December 31, 1973, in accordance with paragraph (c) of this Article, any party state may withdraw from this Agreement by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the Governor of the withdrawing state has given notice in writing of the withdrawal to the Governors of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

“Article XIII.

“Construction and Severability.

This Agreement shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Agreement shall be severable and if any phrase, clause, sentence, or provision of this Agreement is declared to be contrary to the constitution of any state or of the United States, or the application thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this Agreement and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this Agreement shall be held contrary to the constitution of any state participating therein, the Agreement shall remain in full force and effect as to the state affected as to all severable matters.”

Sec. 2. Copies of bylaws and amendments to be filed pursuant to Article VI (j) of the Agreement shall be filed with Chief State Records Keeping Agency.

Sec. 3. Nothing contained in the Southern Growth Policies Agreement as enacted by this act shall in any event be construed to terminate the participation of this State with any state which adopted the Southern Growth Policies Agreement prior to the effective date of this act, except that the provisions of Article XII (c) shall govern with respect to the continuance of states as parties thereto after December 31, 1973.

Sec. 4. No section, Article, or provision contained herein shall be construed so as to prohibit, restrict or restrain the actions of any individual member state or the actions of any county or municipal government within the boundaries of any individual member state nor shall any delegate from the State of North Carolina be authorized by this General Assembly to cast any vote that would in any manner restrict the sovereign rights presently granted to or retained by this State under the United States Constitution, or the rights of any local governments granted by the Constitution of the State of North Carolina or by statutory acts of the General Assembly.

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of April, 1973.

S. B. 506

CHAPTER 201

AN ACT TO REQUIRE NONRESIDENTS OF ROBESON COUNTY TO
APPLY FOR MARRIAGE LICENSES SEVENTY-TWO HOURS
BEFORE ISSUANCE.

The General Assembly of North Carolina enacts:

Section 1. No marriage license shall be issued by any register of deeds for the marriage of any two persons, both of whom are nonresidents of the State of North Carolina, unless application for such license has been on file in the office of the register of deeds issuing the license for at least seventy-two hours.

Sec. 2. Such application shall be made in writing and filed subject to public inspection in the office of the register of deeds to whom the application is made and shall state the names of the parties to the marriage, their race, their ages, and their residence addresses.

Sec. 3. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 4. This act shall become effective upon ratification.

Sec. 5. This act shall only apply to Robeson County.

In the General Assembly read three times and ratified, this the 16th day of April, 1973.

S. B. 579

CHAPTER 202

AN ACT TO AUTHORIZE THE ESTABLISHMENT OF A TOWN LIQUOR CONTROL STORE IN THE TOWN OF MARSHALL, MADISON COUNTY, UPON A VOTE OF THE PEOPLE AND PROVIDING FOR THE ALLOCATION OF THE NET PROCEEDS FROM THE OPERATION OF SUCH STORE.

The General Assembly of North Carolina enacts:

Section 1. The governing body of the Town of Marshall may on its own motion and may upon a petition to said Board signed by at least twenty-five percent (25%) of the total number of qualified voters voting in the last municipal election held in the Town of Marshall, order an election to be held on the question of whether or not a town liquor control store may be operated in the town, and if a majority of the votes cast in such election shall be for the operation of such a store, it shall be legal for a liquor control store to be set up and operated in said town but if a majority of the votes cast in said election shall be against the operation of a town liquor control store, no such store shall be set up or operated in said town under provision of this act.

Sec. 2. In calling for such special liquor election, the governing body shall give at least 30 days' public notice of the same prior to the election. A new registration of voters for such special liquor election shall not be necessary and all qualified electors who are properly registered prior to registration for the special election and those who register in said special liquor election shall be entitled to vote in said election. In said election a ballot shall be used upon which shall be printed on separate lines for each proposition, "For Town Liquor Control Store", "Against Town Liquor Control Store". Those favoring setting up and operating a liquor control store in the town shall mark in the voting square to the left of the words "For Town Liquor Control Store", printed on the ballot; and those opposed to a town liquor control store shall mark in the voting space to the left of the words "Against Town Liquor Control Store". Except as otherwise herein provided, the special election authorized shall be conducted under the same statutes, rules and regulations applicable to municipal elections in the Town of Marshall.

Sec. 3. If a liquor control store is set up and operated in the town pursuant to the provisions of this act, the governing body of the town may upon its own motion or upon petition to said body signed by at least twenty-five percent (25%) of the total number of qualified voters voting in the last municipal election held in the Town of Marshall call another election on the question of whether or not a liquor control store shall continue to be operated in said town. If a subsequent election shall be held and at such election a majority of the votes cast shall be "Against Town Liquor Control Store", the town liquor control board shall within three months from the canvassing of such votes and the declaration of the result thereof, close said store and shall thereafter cease to operate the same. Within this same period of time, the town control board shall dispose of all alcoholic beverages on hand, all fixtures, and all other property in the hands and under the control of said board and convert the same into cash and turn the same over to the Town Treasurer. Thereafter, all Public, Public-

Local and Private Laws applicable to the sale of intoxicating beverages within said Town of Marshall in force and effect prior to the authorization to operate a town liquor control store shall be in full force and effect the same as if such election had not been held until and unless another election is held under the provisions of this act in which a majority of the votes shall be cast "For Town Liquor Control Store".

Sec. 4. No election shall be called and held in the Town of Marshall under the provisions of this act within three years from the holding of the last election thereunder. Any election ordered by the governing body pursuant to a petition filed with said body as herein provided shall be ordered within 60 days of the date said petition is filed with the governing body. No election under this act shall be held on the day of any biennial county or town general election or primary election, or within 30 days of any such election.

Sec. 5. If the operation of a town liquor control store is authorized under the provisions of this act, the governing body of the Town of Marshall shall immediately create a Town Board of Alcoholic Control to be composed of a chairman and two other members who shall be residents of the Town of Marshall, well known for their character, ability and business acumen. Said Board shall be known and designated as "The Town of Marshall Board of Alcoholic Control". The members of said Board shall be named by the Mayor and governing body of the town. One such member shall be designated by the appointing authority as Chairman and shall serve for a term of three years. One of the remaining members shall serve an initial term of two years and the other member shall serve an initial term of one year, the respective term of each to be designated by the appointing authority. All terms shall begin with the date of their appointment, and after the said terms shall have expired, their successors in office shall serve for a period of three years. The successors to the initial members of the Board shall be appointed by the Mayor and governing body and any vacancy occurring in the membership of the Board shall be filled by the Mayor and governing body for the unexpired term of the office in which the vacancy occurs.

Sec. 6. The said Town of Marshall Board of Alcoholic Control shall have all of the powers and duties imposed by Section 18A-17 of the General Statutes on County Boards of Alcoholic Control and shall be subject to the powers and authority of the State Board of Alcoholic Control the same as County Boards of Alcoholic Control as provided in the General Statutes. The said Town of Marshall Board of Alcoholic Control and the operation of any town liquor store authorized under the provisions of this act shall be subject to and in pursuance with the provisions of Chapter 18A of the General Statutes, except to the extent which the same may be in conflict with the provisions of this act. Wherever the word "County" Board of Alcoholic Control appears in said Chapter, it shall include the Town of Marshall Board of Alcoholic Control. Provided, that the provisions of G.S. 18A-17(14) shall not be applicable to the Town Board of Alcoholic Control created under this act.

Sec. 7. The net profits derived from the operation of a liquor control store in the Town of Marshall shall be allocated, quarterly, as follows:

(a) Thirty-three and one-third percent ($33\frac{1}{3}\%$) of the net profits shall be allocated to the General Fund of Madison County to be used for any proper county governmental purposes.

(b) Five percent (5%) of the net profits shall be paid to the Town of Marshall

to be used by said town for the sole purpose of providing additional law enforcement. The remaining net profits shall be paid into the General Fund of the Town of Marshall and may be appropriated by the governing body of the town for any proper governmental purpose.

Sec. 8. The provisions of this act shall not be effective if the County Board of Elections or the County Board of Commissioners shall call a county election on alcoholic beverage control stores, as now provided by law, within 60 days from the ratification of this act.

Sec. 9. The Board of Aldermen of the Town of Marshall may submit a written request to the Board of Elections and the Board of Elections may submit an additional issue under the pertinent provisions of G.S. 18A-52 on the question of the legal sale off premises of unfortified wine and malt beverages.

Sec. 10. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 11. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of April, 1973.

S. B. 606

CHAPTER 203

AN ACT TO PROVIDE THAT THE MEMBERS OF THE YANCEY COUNTY BOARD OF EDUCATION SHALL BE ELECTED IN A NONPARTISAN ELECTION FOR STAGGERED TERMS OF FOUR YEARS.

The General Assembly of North Carolina enacts:

Section 1. The Yancey County Board of Education shall consist of five members who shall be elected by the voters of Yancey County, for staggered terms of four years, in a nonpartisan election as herein provided.

Beginning with the primary election for county offices to be held in 1974, there shall be a nonpartisan election to elect successors to the present members of the school board whose terms expire in 1974, and every two years thereafter, as the terms of the members expire.

The candidates, equal to the number of positions to be filled at each election, who receive the highest number of votes shall be elected, and shall qualify and take office as provided in G.S. 115-22.

Vacancies in the membership of the County Board of Education for any reason shall be filled by appointment by the remaining members of the Board, and the person appointed shall serve for the unexpired term.

Sec. 2. Chapter 979 of the 1971 Session Laws and all other local and private acts in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of April, 1973.

H. B. 36

CHAPTER 204

AN ACT TO ELIMINATE THE WELFARE LIEN AND CLAIM IN FAVOR OF THE COUNTY, STATE, AND FEDERAL GOVERNMENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 108-29, 108-30, 108-31, 108-32, 108-33, 108-34, 108-35, 108-36, 108-37 and 108-37.1 are hereby repealed.

Sec. 2. This act shall not apply to any claims and liens created pursuant to G.S. 108-29 prior to the effective date of this act, and such claims and liens shall be entitled to full and complete enforcement as by law heretofore provided.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of April, 1973.

H. B. 479

CHAPTER 205

AN ACT TO EXEMPT CERTAIN CHAIN STORES FROM CITY LICENSE TAXES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-98 is hereby amended by rewriting the fifth paragraph thereof to read as follows:

"Counties shall not levy a license tax on the business taxed under this section. Cities and towns may levy a license tax not in excess of fifty dollars (\$50.00) for each chain store located in such city or town, except as to those which are so denominated merely because the manner in which they are operated, or the kinds, character or brands of merchandise sold therein are controlled by lease or by contract. For the purpose of ascertaining the particular unit in each chain of stores not subject to taxation by the State under this section, and therefore not liable for city license tax, the particular store in which the principal office of the chain is located in this State shall be designated as the unit in the chain not subject to this tax."

Sec. 2. This act shall be effective on July 1, 1973.

In the General Assembly read three times and ratified, this the 16th day of April, 1973.

S. B. 86

CHAPTER 206

AN ACT PERTAINING TO MANDATORY LICENSE REVOCATION OF DRIVING PRIVILEGE FOR FAILING TO SUBMIT TO BREATH TEST.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-16.2 is hereby rewritten to read as follows:

"§ 20-16.2. *Mandatory revocation of license in event of refusal to submit to chemical tests.*—(a) Any person who drives or operates a motor vehicle upon any highway or any public vehicular area shall be deemed to have given consent, subject to the provisions of G.S. 20-139.1, to a chemical test or tests of his breath or blood for the purpose of determining the alcoholic content of his blood if arrested for any offense arising out of acts alleged to have been committed while the person was driving or operating a motor vehicle while under the influence of intoxicating liquor. The test or tests shall be administered at the request of a law enforcement officer having reasonable grounds to believe the

person to have been driving or operating a motor vehicle on a highway or public vehicular area while under the influence of intoxicating liquor. The law enforcement officer shall designate which of the aforesaid tests shall be administered. The person arrested shall forthwith be taken before a person authorized to administer a chemical test and this person shall inform the person arrested both verbally and in writing and shall furnish the person a signed document setting out:

- (1) That he has a right to refuse to take the test;
- (2) That refusal to take the test will result in revocation of his driving privilege for six months.
- (3) That he may have a physician, qualified technician, chemist, registered nurse or other qualified person of his own choosing administer a chemical test or tests in addition to any administered at the direction of the law enforcement officer; and
- (4) That he has the right to call an attorney and select a witness to view for him the testing procedures; but that the test shall not be delayed for this purpose for a period in excess of 30 minutes from the time he is notified of his rights.

(b) Any person who is unconscious or who is otherwise in a condition rendering him incapable of refusal shall be deemed not to have withdrawn the consent provided by subsection (a) of this section and the test or tests may be administered, subject to the provisions of G.S. 20-139.1.

(c) The arresting officer, in the presence of the person authorized to administer a chemical test, shall request that the person arrested submit to a test described in subsection (a). If the person arrested willfully refuses to submit to the chemical test designated by the arresting officer, none shall be given. However, upon the receipt of a sworn report of the arresting officer and the person authorized to administer a chemical test that the person arrested, after being advised of his rights as set forth in subsection (a), willfully refused to submit to the test upon the request of the officer, the Department shall revoke the driving privilege of the person arrested for a period of six months.

(d) Upon receipt of the sworn report required by G.S. 20-16.2(c) the Department shall immediately notify the arrested person that his license to drive is revoked immediately unless said person requests in writing within three days of receipt of notice of revocation a hearing. If at least three days prior to hearing, the licensee shall so request of the hearing officer, the hearing officer shall subpoena the arresting officer and any other witnesses requested by the licensee to personally appear and give testimony at the hearing. If such person requests in writing a hearing, he shall retain his license until after the hearing. The hearing shall be conducted in the county where the arrest was made under the same conditions as hearings are conducted under the provisions of G.S. 20-16(d) except that the scope of such hearing for the purpose of this section shall cover the issues of whether the law enforcement officer had reasonable grounds to believe the person had been driving or operating a motor vehicle upon a highway or public vehicular area while under the influence of intoxicating liquor, whether the person was placed under arrest, and whether he willfully refused to submit to the test upon the request of the officer. Whether the person was informed of his rights under the provision of N. C. G.S. 20-16.2(a)(1), (2), (3), (4) shall be an issue. The Department shall order that

the revocation either be rescinded or sustained. If the revocation is sustained, the person shall surrender his license immediately upon notification.

(e) If the revocation is sustained after such a hearing, the person whose driving privilege has been revoked, under the provisions of this section, shall have the right to file a petition in the superior court for a hearing de novo to review the action of the Department in the same manner and under the same conditions as is provided in G.S. 20-25.

(f) When it has been finally determined under the procedures of this section that a nonresident's privilege to operate a motor vehicle in this State has been revoked, the Department shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which he has a license.

(g) Any revocation imposed under the provisions of this act shall run concurrently with any revocations issued under the provisions of G.S. 20-16.3."

Sec. 2. Subsection (g) of G.S. 20-16.2 as it appears in the Cumulative Supplement of Volume 1-C of the General Statutes is hereby reenacted as Subsection (g).

Sec. 3. This act shall be effective on June 1, 1973.

In the General Assembly read three times and ratified, this the 17th day of April, 1973.

S. B. 507

CHAPTER 207

AN ACT TO INCREASE THE SIZE AND PROVIDE FOR ELECTION OF THE ROBESON COUNTY SCHOOL BOARD.

The General Assembly of North Carolina enacts:

Section 1. Chapter 770 of the 1969 Session Laws is hereby amended as follows:

(a) In Section 2 thereof by deleting from the first line thereof the word "seven" and inserting in lieu thereof the word "eleven"; and

(b) In Section 4 thereof by adding three new paragraphs to read as follows:

"At the time of the primary election to be held in 1974, and every four years thereafter, each party shall nominate two additional candidates for the Board of Education of Robeson County. The names of the persons so nominated by each political party shall be placed on the official ballots of Robeson County, and shall be voted on by the qualified voters of the Robeson County school district in the general election of 1974.

At the time of the primary election to be held in 1976, and every four years thereafter, each party shall nominate two additional candidates for the Board of Education of Robeson County. The names of the persons so nominated by each political party shall be placed on the official county ballots of Robeson County, and shall be voted on by the qualified voters of the Robeson County school district in the general election of 1976.

For the purposes of this act, the Robeson County school district includes all of Robeson County except that territory within the special school districts for the towns of Maxton, St. Pauls, Red Springs, Lumberton and Fairmont."; and

(c) In Section 5 thereof by inserting in the second line thereof immediately following the word "filled", the words "in each category" and by inserting in the second line thereof immediately following the word "votes", the words "in that category". In addition a second sentence is added to Section 5, to read as follows:

"The first category consists of those positions filled by the voters of the entire county, and the second category consists of those positions filled by the voters of the Robeson County school district."

Sec. 2. The four additional seats on the Robeson County Board of Education shall be filled effective May 1, 1973, as follows:

(a) Monroe Gerald and Simeon Oxendine who shall serve until the first Monday in December 1974 and until their successors have been elected and qualify; and

(b) Harvard Moore and Thurman Anderson who shall serve until the first Monday in December 1976 and until their successors have been elected and qualify.

(c) If any person nominated in Section 2 (a) and (b) to fill a seat on the Robeson County Board of Education elects not to serve as a member of the Robeson County Board of Education, then the person to serve in lieu thereof shall be nominated by legislative act of the General Assembly of North Carolina.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of April, 1973.

S. B. 592

CHAPTER 208

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A COMPREHENSIVE EMERGENCY MEDICAL SERVICES PROGRAM IN NORTH CAROLINA TO BE KNOWN AS THE "EMERGENCY MEDICAL SERVICES ACT OF 1973".

The General Assembly of North Carolina enacts:

Section 1. *Establishment of emergency medical services program.*—(a) There is hereby established a comprehensive emergency medical services program in the Department of Human Resources. All responsibility for this program shall be vested in the Secretary of the Department of Human Resources and other such officers, boards, and commissions specified by law or regulation.

(b) This act is to enable and assist providers of emergency medical services in the delivery of adequate emergency medical services for all the people of North Carolina and the provision of medical care during a disaster.

(c) Emergency medical services referred to in this act include all services rendered in responding to the individual's need for immediate medical care in order to prevent loss of life or further aggravation of physiological or psychological illness or injury. Emergency medical care is further described as first aid by members of the community; public knowledge and easy access into the system; prompt dispatch of well-designed, equipped, and staffed ambulances; effective care by trained attendants at the scene of the emergency and while in transit; communications with the treatment center while at the scene and while in transit; routing and referral to the appropriate treatment facility; immediate definitive care at the emergency treatment facility; and follow-up lifesaving and restorative care.

Sec. 2. *Department of Human Resources to establish program.*—The State Department of Human Resources shall establish and maintain a program for the improvement and upgrading of emergency medical services throughout the State. The Department shall consolidate all State functions relating to

Emergency Medical Services, both regulatory and developmental, under the auspices of this program.

Sec. 3. Powers and duties of Secretary.—The Secretary of the Department of Human Resources has full responsibilities for supervision and direction of the Emergency Medical Services program and, to that end, shall:

(a) After consulting with the Emergency Medical Services Advisory Council and with such local governments as may be involved, seek the establishment of statewide, regional and local Emergency Medical Services operations;

(b) Develop a system for classifying and categorizing hospitals as to kinds and levels of emergency treatment they normally and regularly provide and shall make this information available and known to ambulance service providers, health care facilities and to the general public;

(c) Encourage and assist in the development of appropriately located comprehensive emergency treatment centers;

(d) Encourage and assist in the development of a statewide Emergency Medical Services communications system which will enable transport vehicles to communicate with treatment facilities;

(e) Establish a State Emergency Medical Services records system;

(f) Inspect ambulances, issue permits for operation of ambulance vehicles, train and license ambulance personnel and shall be responsible for the enforcement of all other quality control provisions of the Ambulance Act of 1967, Article 26 of Chapter 130 of the General Statutes of North Carolina;

(g) Designate Emergency Medical Services radio frequencies and coordinate Emergency Medical Services radio communications networks within FCC rules and regulations; and

(h) Promote the development of an air ambulance support system to supplement ground vehicle operations.

Sec. 4. Emergency Medical Services Advisory Council.—(a) The Secretary of the Department of Human Resources shall appoint an Emergency Medical Services Advisory Council to consult with him in the administration of this act. The Council shall be composed of 17 members representing physicians licensed to practice medicine versed in treatment of trauma and suddenly occurring illnesses, emergency room nurses, hospitals, providers of ambulance service (including rescue squads), local government and the general public.

(b) Members shall hold office for a term of four years beginning July 1, 1973, and quadrennially thereafter, except the terms of the members first taking office shall expire, as designated at the time of appointment, six at the end of the second year, six at the end of the third year, and five at the end of the fourth year. Any person appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

(c) The Council shall meet at least once each quarter and at the call of the Secretary of the Department of Human Resources. The Council shall appoint its chairman annually.

(d) Members of the Council shall receive the amount of per diem provided by G.S. 138-5 and actual travel expenses while engaged in Council business or attending Council meetings; all travel expenses shall be paid in accordance with the provisions of the Executive Budget Act.

Sec. 5. Powers and duties of the Council.—The Emergency Medical Services Advisory Council shall (1) advise the Secretary of the Department of

Human Resources on recommendation to the commission or commissions as to designation of multi-county Emergency Medical Services regions, (2) give their advice as to all rules and regulations proposed to be adopted by the commission or commissions, and (3) advise the Secretary on all other matters pertaining to this act.

Sec. 6. Regional demonstration plans.—The Secretary of the Department of Human Resources is authorized to develop and implement, in conjunction with such local sponsors as may agree to participate, regional Emergency Medical Services systems in order to demonstrate the desirability of comprehensive regional Emergency Medical Services systems and to determine the optimum characteristics of such plans. The Secretary may make special grants-in-aid to participants.

Sec. 7. Regional Emergency Medical Services Councils.—The Secretary of the Department of Human Resources may establish Emergency Medical Services Regional Councils to implement and coordinate Emergency Medical Services programs within regions.

Sec. 8. Training programs.—The Department of Human Resources in cooperation with educational institutions shall develop training programs for emergency medical service personnel.

Sec. 9. Rules and regulations.—The Secretary is authorized to establish an appropriate number of multi-county Emergency Medical Services regions.

Sec. 10. Single State agency.—The Department of Human Resources is hereby designated as the single agency for North Carolina for the purposes of all federal Emergency Medical Services legislation as has or may be hereafter enacted to assist in development of Emergency Medical Services plans and programs.

Sec. 11. Ambulance support; free enterprise.—Nothing in this act affects the power of local governments to finance ambulance operations or to support rescue squads. Nothing in this act shall be construed to allow infringement on the private practice of medicine or the lawful operation of health care facilities.

Sec. 12. Severability.—If any provision of this act or the application thereof to any person or circumstance is declared invalid, such application shall not affect other provisions or application of this act which can be given without the invalid provisions or application, and to this end the provisions of this act are declared to be severable.

Sec. 13. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of April, 1973.

H. B. 444

CHAPTER 209

AN ACT TO PROVIDE A SUPPLEMENTAL RETIREMENT FUND FOR FIREMEN IN THE CITY OF LINCOLNTON AND TO MODIFY THE APPLICATION OF G.S. 118-5, G.S. 118-6, AND G.S. 118-7 TO THE CITY OF LINCOLNTON.

The General Assembly of North Carolina enacts:

Section 1. Supplemental Retirement Fund Created. The Board of Trustees of the Local Firemen's Relief Fund of the City of Lincolnton, as established in accordance with G.S. 118-6, hereinafter called the Board of Trustees, shall create and maintain a separate fund to be called the Lincolnton

Firemen's Supplemental Retirement Fund, hereinafter called the Supplemental Retirement Fund, and shall maintain books of account for such fund separate from the books of account of the Firemen's Local Relief Fund of the City of Lincolnton, hereinafter called the Local Relief Fund. The Board of Trustees shall pay into the Supplemental Retirement Fund the funds prescribed by this act.

Sec. 2. *Transfers of Funds and Disbursements.* Notwithstanding the provisions of G.S. 118-7, the Board of Trustees of the Local Firemen's Relief Fund of the City of Lincolnton shall:

(a) prior to January 31, 1974, and in each January thereafter, transfer to the Supplemental Retirement Fund all earnings on investments of the Local Relief Fund;

(b) as soon as practicable after January 1 of each year, but in no event later than July 1, divide funds belonging to the Supplemental Retirement Fund into equal shares and disburse the same as supplemental retirement benefits in accordance with Section 3 of this act.

Sec. 3. *Supplemental Retirement Benefits.* (a) Each retired fireman of the city who has previously retired with 20 years service or more as a city fireman, and who retired subsequent to attaining the age of 55 years, shall be entitled to and shall receive an annual supplemental retirement benefit equal to one share for each full year of service as a fireman of the city; provided, in no event shall any retired fireman be entitled to or receive in any year an annual benefit in excess of six hundred dollars (\$600.00).

(b) any former fireman of the city who is not otherwise entitled to supplemental retirement benefits under subsection (a) of this section, shall nevertheless be entitled to such benefits in any calendar year in which the Board of Trustees makes the following written findings of fact:

- (1) that he initially retired from his position as fireman because of his inability, by reason of sickness or injury, to perform the normal duties of an active fireman; and
- (2) that, within 30 days prior to or following his initial retirement as a fireman, at least two physicians licensed to practice medicine in North Carolina certified that he was at such time unable, by reason of sickness or injury, to perform the normal duties of an active fireman; and
- (3) that, since the preceding January 1, a physician licensed to practice medicine in North Carolina has certified that he remains unable, by reason of sickness or injury, to perform the normal duties of an active fireman; provided, that the Board of Trustees, after initially making the findings of fact specified in (1), and (2) of this subsection, need not specify such findings in subsequent calendar years.

Sec. 4. *Intention.* It is the intention of Sections 1, 2, and 3 of this act to authorize the disbursement as supplemental retirement benefits only of the funds belonging to the Supplemental Retirement Fund.

Sec. 5. *Investment of Funds.* The Board of Trustees is hereby authorized and directed to invest all of the funds of the Local Firemen's Relief Fund in one or more of the investments named in or authorized by G.S. 159-30.

Sec. 6. *Acceptance of Gifts.* The Board of Trustees is hereby authorized to accept any gifts, grants, bequests, or donations of money, properties or any other gifts or grants for the use of the Supplemental Retirement Fund.

Sec. 7. *Bond of Treasurer.* The Board of Trustees shall bond the

Treasurer of the Local Firemen's Relief Fund with a good and sufficient bond, in an amount at least equal to the amount of funds in his control, payable to the Board of Trustees, and conditioned upon the faithful performance of his duties; such bond shall be in lieu of the bond required by G.S. 118-6. The Board of Trustees shall pay from the Local Firemen's Relief Fund the premium on the bond of the Treasurer.

Sec. 8. *City Authorized to Make Payment.* The Board of Aldermen of the City of Lincolnton is hereby authorized and may at its discretion make appropriations and disburse funds to the Supplemental Retirement Fund.

Sec. 9. If any provision of this act shall be declared invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions hereof which can be given effect without the invalid provision, and to this end the provisions of this act are declared to be severable.

Sec. 10. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 11. This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of April, 1973.

H. B. 536

CHAPTER 210

AN ACT TO REPEAL CHAPTER 293, PRIVATE LAWS OF 1905, AND CHAPTER 94, PRIVATE LAWS OF 1911, FORMER CHARTERS OF THE TOWN OF LOCUST.

The General Assembly of North Carolina enacts:

Section 1. Chapter 293, Private Laws of 1905, and Chapter 94, Private Laws of 1911, former Charters of the Town of Locust, are hereby repealed.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of April, 1973.

H. B. 551

CHAPTER 211

AN ACT TO AMEND SECTION 2, CHAPTER 858, 1967 SESSION LAWS TO PERMIT HUNTING WITH PISTOLS IN HENDERSON COUNTY PURSUANT TO G.S. 113-104.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 858 of the 1967 Session Laws of North Carolina is amended by striking the word "and" following the name "Mitchell", substituting a comma therefor, and adding the words "and Henderson" following the name "Transylvania", in order that hunting of squirrels and rabbits with pistols will be legal in Henderson County under the provisions of G.S. 113-104.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of April, 1973.

H. B. 603

CHAPTER 212

AN ACT PERMITTING THE SALISBURY CITY BOARD OF EDUCATION TO SELL OR CONVEY CERTAIN SURPLUS REAL PROPERTY OWNED BY IT TO THE ROWAN COUNTY VOCATIONAL WORKSHOP, INC.

The General Assembly of North Carolina enacts:

Section 1. The Salisbury City Board of Education is hereby authorized and empowered to convey any parcel or parcels of surplus real estate which it may now own to the Rowan County Vocational Workshop, Inc.; provided, however, that the deed conveying said land to the Rowan County Vocational Workshop, Inc., shall contain a reversionary or condition subsequent clause which shall provide, in effect, that the fee in the land shall revert to the Salisbury City Board of Education in the event the land is no longer used for the purposes for which the Rowan County Vocational Workshop, Inc., was established.

Sec. 2. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 17th day of April, 1973.

H. B. 634

CHAPTER 213

AN ACT TO AMEND THE CHARTER OF THE CITY OF GREENSBORO AS REVISED AND REORGANIZED BY CHAPTER 1137 OF THE SESSION LAWS OF 1959, AND AS AMENDED; AND TO EXEMPT CITY OF GREENSBORO FROM PROVISIONS OF GENERAL STATUTES RELATING TO THE RECORDATION OF CERTAIN ORDINANCES IN THE OFFICE OF THE REGISTER OF DEEDS.

The General Assembly of North Carolina enacts:

Section 1. Section 2.21 of the Charter of the City of Greensboro, as set forth in Section 1, Chapter 1137 of the Session Laws of 1959, as amended, is amended by rewriting the entire section to read as follows:

"Section 2.21. *Candidates for City Council and Conduct of Municipal Elections.* All candidates for City Council shall file notice of candidacy in accordance with Article 24 of Chapter 163 of the General Statutes of North Carolina concerning municipal elections. Elections for Mayor and City Council shall be by the nonpartisan primary and election method set out in North Carolina General Statute 163-294. All such municipal elections shall be held and conducted as provided by Articles 23 and 24 of Chapter 163 of the General Statutes. Unless provided otherwise in this Charter, Chapter 163 of the General Statutes shall govern all City elections, and the Guilford County Board of Elections shall exercise all the functions and duties established therein."

Sec. 2. Section 2.41 of the Charter of the City of Greensboro, as set forth in Section 1, Chapter 1137 of the Session Laws of 1959, as amended by Section 2 of Chapter 686, Session Laws of 1961, is hereby amended by rewriting the section to read as follows:

"Section 2.41. *Time of Regular Municipal Elections and Mode of Election.* Municipal elections for Mayor and City Council shall be biennially beginning on Tuesday after the first Monday in November, 1973. The municipal primary election, if one is required for the nomination of candidates for the office of

Mayor and City Council, shall be held on the fourth Tuesday, preceding the regular municipal election.

All candidates for City Council shall be nominated and elected at large by all of the qualified voters of the City. In addition, a mayor shall be elected separately and at large by all the qualified voters of the City."

Sec. 3. Section 2.42 of the Charter of the City of Greensboro, as set forth in Section 1, Chapter 1137 of the Session Laws of 1959, is amended by rewriting the section to read as follows:

"Section 2.42. *Guilford County Board of Elections to Conduct Municipal Elections.* All municipal primary elections, regular municipal elections and special elections of the City of Greensboro shall be held, conducted, supervised and canvassed by the Guilford County Board of Elections as provided for in the general laws of the State. Voting machines of any type approved by the State Board of Elections shall be used in all municipal primaries and elections. The City of Greensboro is authorized, by agreement, to reimburse the County Board of Elections for the actual costs involved in the registration of voters and the conduct of municipal elections."

Sec. 4. Section 2.43 of the Charter of the City of Greensboro, as set forth in Section 1, Chapter 1137 of the Session Laws of 1959, is hereby repealed in its entirety.

Sec. 5. Section 2.46 of the Charter of the City of Greensboro, as set forth in Section 1, Chapter 1137 of the Session Laws of 1959, as amended by Section 3, Chapter 686 of the Session Laws of 1961 is hereby repealed in its entirety.

Sec. 6. Section 2.61 of the Charter of the City of Greensboro, as set forth in Section 1, Chapter 1137 of the Session Laws of 1959, is amended by rewriting the section to read as follows:

"Section 2.61. *Special Elections.* The Council shall have the power to call at any time any special election for any purpose expressly authorized by law. The procedure for calling a special election shall be in accordance with North Carolina General Statute 163-287, except as otherwise provided by the City Charter or general law. All bond elections shall be called in accordance with the provisions of general law and such elections shall be held and conducted under the authority of the Local Government Finance Act. Initiative, referendum and recall elections shall be governed by Article 2 of this Subchapter."

Sec. 7. Section 3.01 of the Charter of the City of Greensboro, as set forth in Section 1, Chapter 1137 of the Session Laws of 1959 is amended by rewriting the section to read as follows:

"Section 3.01. *Composition and Term of the Mayor and City Council.* The City Council shall consist of six members, who shall be elected for a term of two years in the manner provided by Chapter II. In addition, there shall be a mayor who shall be elected for a term of two years in the manner provided by Chapter II."

Sec. 8. Section 3.02 of the Charter of the City of Greensboro, as set forth in Section 1, Chapter 1137 of the Session Laws of 1959, is amended by rewriting the heading thereof to read as follows:

"Section 3.02. *Qualifications and Term of Mayor and Council; Vacancies.*"

Sec. 9. Section 3.02(a) of the Charter of the City of Greensboro, as set

forth in Section 1, Chapter 1137 of the Session Laws of 1959, is amended by adding a new sentence at the end thereof to read as follows:

"The Mayor shall continue to serve until his successor is elected and qualified."

Sec. 10. Section 3.02(c) of the Charter of the City of Greensboro, as set forth in Section 1, Chapter 1137 of the Session Laws of 1959, is amended by adding a new sentence at the end thereof to read as follows:

"Any vacancy occurring in the office of Mayor shall be filled by appointment made by the City Council for the remainder of the unexpired term."

Sec. 11. Section 3.03 of the Charter of the City of Greensboro, as originally set forth in Section 1, Chapter 1137 of the Session Laws of 1959 and as further amended by subsequent Session Laws, is amended by rewriting the section to read as follows:

"Section 3.03. *Compensation of Mayor and Council.* The City Council may fix its own compensation and the compensation of the Mayor in such sums as may be just and reasonable. Adjustments in the compensation of the Mayor and City Council members may be made effective at such time as the Council directs, but the salary of an elected official shall not be reduced during the then current term of office unless he shall agree thereto."

Sec. 12. Section 3.21 of the Charter of the City of Greensboro, as set forth in Section 1, Chapter 1137 of the Session Laws of 1959, is amended by rewriting the section to read as follows:

"Section 3.21. *Oath of Office; Organizational Meetings.* The organizational meeting of the Council shall be the first regular meeting in December after the regular City election. At the organizational meeting, the newly elected Mayor and Councilmen shall qualify by taking the oath of office prescribed in Article VI, Section 7 of the Constitution. The Council shall organize by the choice from its members of a Mayor Pro Tem who shall hold his office at the pleasure of the Council. The organization of the Council shall take place notwithstanding the absence, death, refusal to serve, failure to qualify, or non-election of one or more members, but at least a quorum of the members must be present."

Sec. 13. Section 3.23(b) of the Charter of the City of Greensboro, as set forth in Section 1, Chapter 1137 of the Session Laws of 1959, is amended by rewriting the first paragraph contained therein to read as follows:

"(b) The Mayor shall be considered and given the same status as a member of the Council for the purpose of determining a quorum of the City Council and for the purpose of voting. A majority of the members of the Council shall constitute a quorum to do business, but a less number may adjourn from time to time and compel the attendance of absent members by ordering them to be taken into custody. The affirmative vote of a majority of the members of the Council shall be necessary to adopt any ordinance. All other matters voted upon shall be by majority vote of the Council members present but no ordinance shall be adopted on the same day it is introduced unless five affirmative votes are received in favor of it. No member shall be excused from voting except on matters involving the consideration of his own official conduct or involving his financial interest."

Sec. 14. Section 4.51 of the Charter of the City of Greensboro, as set forth in Section 8, Chapter 686 of the Session Laws of 1961, is amended by repealing the word "five" as it appears in the first sentence thereof and by substituting in lieu thereof the word "three".

Sec. 15. Section 4.63 of the Charter of the City of Greensboro, as set

forth in Section 1, Chapter 1137 of the Session Laws of 1959, is amended by repealing the statutory reference "G.S. 105-385(c) through (g)" contained therein and by substituting in lieu thereof a new statutory reference as follows: "G.S. 105-367 and 368."

Sec. 16. Section 4.64 of the Charter of the City of Greensboro, as set forth in Section 9, Chapter 686 of the Session Laws of 1961, is amended by repealing the statutory reference "G.S. 18-135" contained therein and by substituting in lieu thereof a new statutory reference as follows: "G.S. 105-113.79 and G.S. 105-113.82."

Sec. 17. Section 4.111 of the Charter of the City of Greensboro, as originally set forth in Section 1, Chapter 1137 of the Session Laws of 1959 and as further amended by subsequent Session Laws, is amended by adding a new sentence following the third sentence contained therein, said new sentence to read as follows:

"A contract for construction or demolition may be approved, awarded and executed by the City Manager on behalf of the City when the amount of such contract does not exceed twenty-five thousand dollars (\$25,000); provided that the City Council shall have approved a sufficient appropriation in the Annual Budget for the current fiscal year for the general purposes specified under the contract."

Sec. 18. Section 4.125(c) of the Charter of the City of Greensboro, as set forth in Section 1, Chapter 1137 of the Session Laws of 1959 and as further amended by Section 8, Chapter 74 of the Session Laws of 1967, is amended by rewriting the subsection to read as follows:

"The City Manager shall have the authority, under rules and regulations approved by the City Council, to lease, privately or publicly, any vacant land or any structure owned by the City for a period of not exceeding three years and at a rental to be determined by the City Manager to be the fair rental value of the property."

Sec. 19. Section 5.22 of the Charter of the City of Greensboro, as set forth in Section 1, Chapter 1137 of the Session Laws of 1959, is amended by first, repealing the statutory reference "Section 18-45" as contained in the first sentence thereof and by substituting in lieu thereof a new statutory reference as follows: "Section 18A-17"; secondly, by repealing the statutory reference "Section 18-39" as contained in the first sentence and by substituting in lieu thereof a new statutory reference as follows: "Section 18A-15"; thirdly, by repealing the statutory reference "Article 3 of Chapter 18" as the same appears in the second sentence and by substituting in lieu thereof a new statutory reference to read as follows: "Article 2 of Chapter 18A"; and finally, by repealing the statutory reference "Section 18-4(o)" as the same appears in the last sentence and by substituting in lieu thereof a new statutory reference to read as follows: "Section 18A-20".

Sec. 20. Section 5.23 of the Charter of the City of Greensboro, as set forth in Section 1, Chapter 1137 of the Session Laws of 1959, and as further amended by Section 1, Chapter 769 of the Session Laws of 1963, is amended by rewriting the first sentence as follows:

"The Board of Alcoholic Control is authorized, in its discretion, to expend for law enforcement not more than ten percent (10%) of the profits remaining after

the payment of all other costs and operating expenses, to be determined by quarterly audits."

Sec. 21. Section 5.62(b) of the Charter of the City of Greensboro, as set forth in Section 1, Chapter 1137 of the Session Laws of 1959 and as further amended by Section 11, Chapter 74 of the Session Laws of 1967, is amended by rewriting the first sentence thereof to read as follows:

"One but not more than three members of the Greensboro Planning Board, authorized by G.S. 160A-361, may be citizens and residents of the territory beyond the corporate limits of Greensboro and within one mile thereof."

Sec. 22. Section 5.62(g) of the Charter of the City of Greensboro, as set forth in Section 12, Chapter 74 of the Session Laws of 1967, is amended by rewriting the first sentence thereof to read as follows:

"One but not more than three members of the Greensboro Zoning Commission, authorized by G.S. 160A-387, may be citizens and residents of the territory beyond the corporate limits of Greensboro and within one mile thereof."

Sec. 23. Section 5.64 of the Charter of the City of Greensboro, as set forth in Section 10, Chapter 142 of the Session Laws of 1969, is amended by adding a new paragraph following the first paragraph thereof to read as follows:

"The City Council may establish conditional use zoning districts to coincide and correlate with the issuance of conditional use permits. Such districts shall be established and amended under rules, regulations and guidelines as may be established by the City Council."

Sec. 24. Section 7.03 of the Charter of the City of Greensboro, as set forth in Section 23, Chapter 686 of the Session Laws of 1961 and as further amended by Section 12, Chapter 55 of the Session Laws of 1963, is amended by striking out the words and figures "one thousand dollars (\$1,000.00)" as the same appears twice therein and by substituting in lieu thereof the words and figures "five thousand dollars (\$5,000)" in both places.

Sec. 25. All extensions and purported extensions of the corporate limits of the City of Greensboro are hereby declared to be approved and validated.

Sec. 26. All proceedings of the City Council of the City of Greensboro and all work performed relative to local improvements, including street paving, sidewalk construction, water and sanitary sewer construction, including water and sanitary sewer mains, lines and laterals, and all work incidental to such local improvements and the assessments levied and assessed therefor, are hereby in all respects approved and validated; provided, this section shall not apply to either pending litigation or pending claims filed with the City of Greensboro.

Sec. 27. The City of Greensboro is hereby exempted from the provision in G.S. 160A-364 relating to the recordation of ordinances in the Office of the Register of Deeds of the county and such provision is hereby no longer applicable to the City of Greensboro; provided, however, the remainder of the provisions of G.S. 160A-364 shall remain applicable to the City of Greensboro.

Sec. 28. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 29. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 17th day of April, 1973.

H. B. 653

CHAPTER 214

AN ACT TO INCREASE THE NUMBER OF MEMBERS OF THE CIVIL SERVICE BOARD FOR THE CITY OF STATESVILLE FROM THREE TO FIVE.

The General Assembly of North Carolina enacts:

Section 1. Sec. 2 of Chapter 1002 of the Session Laws of 1947 is hereby amended by adding at the end thereof the following words:

"From and after the ratification of this act, the Civil Service Board for the City of Statesville, Iredell County, North Carolina, shall consist of five members. The additional two members shall be appointed by the Resident Judge of the Superior Court of the Judicial District of which Iredell County is a part, and they and their successors shall serve for a period of two years. Any vacancies of these two membership positions shall be filled according to the same procedure as would be followed for the already existing three membership positions."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of April, 1973.

H. B. 654

CHAPTER 215

AN ACT TO EXTEND THE TERM OF OFFICE OF THE IREDELL COUNTY REGISTER OF DEEDS TO FOUR YEARS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 161-2, as the same appears in the 1972 Replacement Volume 3D of the General Statutes, is hereby amended by deleting from line 8 thereof the word "Iredell".

Sec. 2. It is the purpose and intent of this act that the Register of Deeds of Iredell County shall, from and after the primary election and general election of 1974, be elected to a term of four years.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of April, 1973.

H. B. 658

CHAPTER 216

AN ACT TO AMEND CHAPTER 408 OF THE SESSION LAWS OF 1971 RELATING TO THE KANNAPOLIS FIREMEN'S SUPPLEMENTAL RETIREMENT FUND.

The General Assembly of North Carolina enacts:

Section 1. Section 3 (a) of Chapter 408 of the 1971 Session Laws is hereby amended by striking "thirty (30)" therefrom and inserting "twenty (20)" in place thereof.

Sec. 2. Section 3 (b) of Chapter 408 of the 1971 Session Laws is hereby amended by striking "twenty (20)" therefrom and inserting "ten (10)" in place thereof.

Sec. 3. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of April, 1973.

H. B. 661 CHAPTER 217

AN ACT TO AMEND G.S. 115-29 TO PROVIDE ADDITIONAL COMPENSATION FOR THE CHAIRMAN AND MEMBERS OF THE DAVIE COUNTY BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115-29 is hereby amended by adding the following at the end of said section:

"Provided, that the Chairman of the Davie County Board of Education shall be entitled to compensation for his services in that capacity in the amount of six hundred dollars (\$600.00) per year and that each member of the Board shall be entitled to compensation for his services in that capacity in the amount of four hundred dollars (\$400.00) per year."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of April, 1973.

H. B. 663 CHAPTER 218

AN ACT PROVIDING FOR THE TRANSFER OF THE PUBLIC LIBRARY OF CHARLOTTE AND MECKLENBURG COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The Board of Commissioners of Mecklenburg County is hereby authorized and empowered to assume direct control of the Public Library of Charlotte and Mecklenburg County. The Board of Commissioners may exercise the power and authority herein conferred only after a public hearing held by said Board pursuant to thirty days' notice of said public hearing given in a newspaper having general circulation in said county. Upon the adoption of said resolution, the Public Library of Charlotte and Mecklenburg County shall become a department or agency of Mecklenburg County and all real and personal property and all other assets and liabilities shall be and become owned by, vested in and/or imposed upon said county. All persons theretofore employed by the Public Library of Charlotte and Mecklenburg County shall become employees of Mecklenburg County and shall be entitled to all rights and benefits afforded county employees by county personnel regulations; provided, however, that said employees shall retain all fringe benefits theretofore acquired as employees prior to the effective date of said resolution.

Sec. 2. Upon the effective date of the transfer of the Public Library of Charlotte and Mecklenburg County to the County of Mecklenburg, as hereinabove authorized, Chapter 16, Private Laws of 1903, and Chapter 366, Public-Local Laws of 1939, and Chapter 710 of Session Laws of 1965 are repealed, and the library system herein conveyed to Mecklenburg County shall be operated and maintained in accordance with the provisions of G.S. 153-261 through 270 and as the same may from time to time be amended.

Sec. 3. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of April, 1973.

H. B. 668

CHAPTER 219**AN ACT TO PLACE WILKES COUNTY UNDER THE GENERAL LAW REGARDING BAIL BONDSMEN AND RUNNERS.**

The General Assembly of North Carolina enacts:

Section 1. G.S. 85A-34 is hereby amended by adding Wilkes County to the list of counties to which Chapter 85A of the General Statutes is applicable.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of April, 1973.

H. B. 677

CHAPTER 220**AN ACT TO ESTABLISH THE LIMITS OF AUTHORITY OF THE COUNTY MANAGER.**

The General Assembly of North Carolina enacts:

Section 1. The County Manager of Guilford County shall have the authority, under rules and regulations adopted by the Board of County Commissioners, to exercise the following duties:

1. To lease, privately or publicly, any vacant land or any building owned by the County, from month to month, at a rental to be determined by the County Manager to be the fair rental value of the property.

2. To contract on behalf of the County as provided in this paragraph. Any contract for the purchase of apparatus, supplies, materials or equipment or contract for the performance of services or contract for the construction of any project may be approved, awarded and executed by the County Manager on behalf of the County provided the amount of such contract does not exceed five thousand dollars (\$5,000) and the County Commissioners shall have approved a sufficient appropriation in the annual budget for the current fiscal year. Before any such contract is awarded, the County Manager shall comply with all other requirements set forth in G.S. 143-129 and G.S. 143-131, and said contract shall be subject to the approval of the County Attorney. Any person aggrieved by an award made pursuant to this section may appeal to the County Commissioners by filing notice thereof with the Clerk to the Board immediately following the decision granting such award.

3. To execute releases of persons, firms, and corporations because of damages to personal property belonging to the County when the full amount of damages to such property is ascertained and a statement thereof has been furnished to the Manager by the County Attorney and the amount of such release does not exceed one thousand dollars (\$1,000).

4. To settle claims against the County for (a) personal injury or for damage to property when the amount involved does not exceed the amount of one thousand dollars (\$1,000) and does not exceed the actual loss sustained, including loss of time, medical expenses, and any other expense actually incurred, and (b) the taking of property for rights-of-way in connection with public improvement which the County is authorized by law to make, when the amount involved in any such settlement does not exceed the sum of one thousand dollars (\$1,000)

and does not exceed the actual loss sustained. Settlement of the claim by the County Manager pursuant to this section shall constitute a complete release of the County from any and all damages sustained by the person involved in such settlement in any manner arising out of the accident, occasion, or taking complained of. All such releases shall be subject to approval of the County Attorney.

5. For any contract involving a construction project, the County Manager is authorized, in his sound judgment and discretion, to approve change orders and extensions in such construction contract up to an amount not exceeding five thousand dollars (\$5,000) for each such change order or extension. Such approval shall be valid provided that the County Accountant has verified the amount of funds available and legal approval has been secured by the County Attorney. In order to implement any such change order and extensions in the manner hereinabove set out, the County Manager may further authorize payment and allocation of funds as necessary for the accomplishment thereof.

6. To sell any personal property not exceeding five thousand dollars (\$5,000) in value at the time of sale.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of April, 1973.

H. B. 680

CHAPTER 221

AN ACT TO AMEND CHAPTER 168 OF THE PUBLIC-LOCAL LAWS OF 1939, AS AMENDED, RELATING TO THE RALEIGH-DURHAM AIRPORT AND AUTHORIZING AGREEMENTS BETWEEN THE RALEIGH-DURHAM AIRPORT AUTHORITY AND THE COUNTIES OF WAKE AND DURHAM PROVIDING FOR THE LEVY OF TAXES TO SECURE THE PAYMENT OF REVENUE BONDS ISSUED BY THE RALEIGH-DURHAM AIRPORT AUTHORITY.

The General Assembly of North Carolina enacts:

Section 1. That Chapter 168 of the Public-Local Laws of 1939, as amended by Chapter 292 of the Public-Local Laws of 1941, as amended by Chapter 79 of the Session Laws of 1945, as amended by Chapter 1096 of the Session Laws of 1955, as amended by Chapter 455 of the Session Laws of 1957, as amended by Chapter 755 of the Session Laws of 1959, as amended by Chapter 781, of the Session Laws of 1967, and as amended by Chapter 287 of the Session Laws of 1971, is hereby amended in the following particulars:

A. By adding the following paragraph to Section 7 of said act as amended, as follows:

"Section 7.(M) The County of Wake and the County of Durham are authorized to aid the Raleigh-Durham Airport Authority in the financing of improvements at the Raleigh-Durham Airport by entering into and performing contracts and agreements with said Authority to pay the principal of and interest on bonds, notes or other securities and obligations issued by said Authority to the extent that revenues of said Authority may not be sufficient to pay such principal or interest. Such contracts or agreements may be pledged by said Authority to the holders of bonds of said Authority or to a trustee for such holders as security for the payment of principal of and interest on such bonds, notes or other securities and obligations. Such contracts or agreements may

provide that the County of Wake and the County of Durham shall levy taxes in any fiscal year for the purpose of providing moneys with which to pay principal of and interest on bonds of said Authority and the amounts of such taxes may be based upon an estimate of a deficiency in revenues of said Authority for a forthcoming fiscal year or years. Such contracts or agreements may also provide that the County of Wake and the County of Durham shall levy a tax in any fiscal year or years for the purpose of providing moneys with which to replenish any reserve fund of said Authority established to further secure the payment of the principal and interest on its bonds, notes or other securities and obligations to the extent moneys in such fund have been withdrawn and applied to the payment of such principal and interest.

Such contracts or agreements, before becoming effective, shall be authorized by resolution adopted by the Board of Commissioners of the affected County and shall be approved by a favorable vote of the majority of the qualified voters of such County voting at a general election or at a special election; provided, however, that no such contract shall be entered into unless each County has authorized their respective contracts and such contract has been approved by the voters of the respective County as provided herein. Upon the approval of the qualified voters and the authorization by the Board of Commissioners and proper execution of such contracts or agreements, each County shall thereafter be authorized to levy a tax in each of the fiscal years covered by such contracts in an amount necessary to provide for the payment of principal and interest on bonds, notes or other securities and obligations of the Raleigh-Durham Airport Authority to the extent that the revenues of said Authority are not sufficient for such purpose and in accordance with terms of and as provided by such contracts."

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall be effective upon its ratification.

In the General Assembly read three times and ratified, this the 17th day of April, 1973.

H. B. 691

CHAPTER 222

AN ACT TO AMEND CHAPTER 72 OF THE SESSION LAWS OF NORTH CAROLINA FOR THE YEAR 1969, AS AMENDED, REVISING THE DESCRIPTION OF THE CORPORATE LIMITS OF WHISPERING PINES TO SHOW CORRECTION OF AN ERROR TO SHOW AREAS ANNEXED, AND TO SHOW EXCLUSION OF PROPERTY FORMERLY INCLUDED BY MISTAKE.

The General Assembly of North Carolina enacts:

Section 1. Article III, Section 1, entitled "Corporate Limits" of Section one of Chapter 72 of the 1969 Session Laws, as amended by Chapter 372 of the 1969 Session Laws is hereby amended to show the new corporate limit lines of the Village of Whispering Pines:

"BEGINNING at the intersection of the north line of State Road No. 1843 with the west line of State Road No. 1842, said Road No. 1843 leading from Lakeview of Knollwood Airport and Road No. 1842 leading from Road No. 1843 to the Whispering Pines Country Club, running thence from the beginning with the west line of State Road No. 1842 in a northerly direction to a line of

Whispering Pines, Inc., 38.97 acre, Mary K. Blue tract; thence with the Whispering Pines line, S 76-05 W 234.29 feet to a concrete monument; thence N 14-55 W 1549.15 feet to a concrete monument, a corner of Whispering Pines; thence S 58-11 W 1935 feet to a concrete monument; thence S 79-16 W 820.5 feet to a concrete monument; thence S 1-04 E 995.1 feet to a concrete monument; thence S 67-31 W 1373.8 feet to a concrete monument; thence N 43-21 W 867.2 feet to a concrete monument; thence N 39-35 W 819.0 feet; thence N 47-33 E 372 feet to the corner of Lots 340B and 341B in Section Four of the Whispering Pines Subdivision; thence with the back line of the lots fronting on Pine Ridge Drive to a point in the center of the back line of Lot 357B; thence N 30-30 W 197.9 feet to a concrete monument; thence S 72-40 W 876.0 feet; thence N 27-25 W 310.5 feet; thence S 60-35 W 298.1 feet; thence S 88-35 W 241.0 feet; thence N 45-35 W 244.0 feet; thence S 64-35 W 495.0 feet; thence S 54-25 W 254.0 feet; thence S 27-35 E 429.0 feet; thence along Pee Dee Road to the point and place of beginning of the corner tract which is a concrete monument on the East Side of Pee Dee Road and the West corner of the Ransdall 95.8 acre tract as shown on a map entitled 'Sandhills Properties, Incorporated', made by C.H. Blue, Surveyor, and recorded in the Map Book 7 at Page 2 in the Office of the Register of Deeds for Moore County; thence N 52-30 W 205.0 feet to a concrete monument; thence N 50-53 E 324.0 feet to a concrete monument; thence N 17-20 E 2787.8 feet to a concrete monument; thence N 72-44 W 420.0 feet to a concrete monument; thence N 17-16 E 651.1 feet to a concrete monument; thence S 76-58 E 421.1 feet to an iron stake on the south side of Little River; thence S 77-07 E 734.0 feet to a monument; thence N 68-05 E 89.1 feet to a monument; thence S 71-04 E 675.0 feet to a monument; thence S 11-31 E 128.8 feet to a monument; thence S 72-55 E 1213.0 feet to the west side of State Road No. 1841 (Old Pee Dee Road); thence N 24-50 E 305.5 feet to a corner on the west side of State Road 1841 (Old Pee Dee Road); thence with King's line S 65-11 E 682.4 feet; thence N 78-10 E 394.9 feet; thence N 31-43 E 302.3 feet; thence N 73-17 W 878.0 feet to a concrete monument; thence S 89-21 W 161.9 feet to the west line of State Road No. 1841; thence with the west line of the road in a northerly direction crossing Little River to the southwest corner of Lot 89B, Section Five, Whispering Pines; thence N 32-33 E 455.2 feet to a concrete monument; thence N 52-33 E 740 feet to a concrete monument; thence 88-03 E 769.7 feet to a monument; thence S 3-03 W 200.0 feet to a monument; thence N 87-29 E 716.05 feet to a concrete monument; thence N 23 W 300 feet to an iron stake; thence N 65 W 525.6 feet to an iron stake; thence S 85 E 176.6 feet to an iron stake; thence S 77-30 E 1324.0 feet to an iron stake; thence S 13-41 W about 560 feet to a corner of Lot 66-B and 67-B, Whispering Pines, Section Three; S 69-42 E 907.73 feet to a monument; thence N 76-37 E 397.3 feet to a monument in the northwest line of Lake View Drive; thence along the line of Lake View Drive easterly about 900 feet to the run of Little Creek; thence up the run of Little Creek about 450 feet to the northwest corner of Lot 52-B, Whispering Pines, Section One; thence N. 75-41 E 591.33 feet to a monument; thence N 86-46 E 607.03 feet to a monument; thence S 44-19 E 748.69 feet to a monument; thence S 78-39 E 448.5 feet to the north line of Lake View Drive; thence easterly with the line of Lake View Drive a distance of 206.64 feet to the southwest corner of Lot 14-B, Whispering Pines, Section One; thence N 13-36 E 163.31 feet to a monument; thence N 80-08 E 298.65 feet to a monument;

thence S 35-43 E 167.37 feet to the north line of Lake View Drive; thence N. 27-05 E 309.2 feet; thence S 75-04 E 361.0 feet; thence S 45 W 148.5 feet to the northwest corner of Lot 54-B, Section One; thence S 46-01 E 515.21 feet to a monument; thence S 80-09 E 376.0 feet to a monument; thence S 72-22 E 60.23 feet to a monument; thence S 50-40 E 149.62 feet to the west line of State Road No. 1802; thence with the line of the road in a southerly direction about 1300 feet to the run of Little River; thence down the run of the river about 2400 feet to the mouth of a branch; thence up the branch in a southerly direction about 700 feet to a canal; thence up the canal southwesterly about 600 feet to a corner of the Whispering Pines, 'C. S. Bibey tract'; thence south about 100 feet; thence N 85-37 W 155 feet; thence S 18-23 W 1149.5 feet to a monument; thence S 18-41 W 406.95 feet to the southeast corner of Lot 1-B, Section Eight of Whispering Pines; thence S 89-40 W 1345.8 feet to a monument; thence S 80-00 W 1406 feet to the center of State Road No. 1802; thence along the east side of State Road No. 1802 in a northeasterly direction to a monument in the southern corner of Lot No. 192-B; thence northwesterly along the southerly line of Lots 192-B, 193-B and 194-B to the center of Lot 195-B in Section Two, Whispering Pines; thence along the southern boundaries of Lots 195-B to the southerly intersection of Lots 217-B and 218-B, Section Two, Whispering Pines; thence S 66-45 W 808.45 feet to a monument; thence S 0-47 E 624.65 feet to the northerly side of State Road No. 1842; thence along the northern side of State Road No. 1842 to the intersection of State Road No. 1802; thence in a southerly direction along the west side of State Road No. 1802 to the boundary between Lots 1-A and 2-A, Section Six, Whispering Pines, N. C.; thence S 12-49 E 328.5 feet; thence S 11-24 E 1420.3 feet; thence S 9-24 E 234.3 feet to a corner of the Whispering Pines' Tarlton tract; thence S 84-52 W 567.6 feet to an iron stake; thence N 9-07 W 234 feet to an iron stake; thence S 84-53 W 835 feet to a monument in the south line of Lot 11-B, Section Six, Whispering Pines; thence N 43-38 W 51.1 feet to S. R. Ransdell's corner of 0.46 acres; thence with the 0.46 acre line S 84-53 W 471.3 feet to a concrete monument; thence S 33-39 W 353.57 feet to a concrete monument, Ransdell's corner with Whispering Pines; thence S 7-02 W 900 feet to a concrete monument, Ransdell's corner with Whispering Pines; thence S 82-48 E about 850 feet to Ransdell's corner; thence with Ransdell S 2-54 W about 930 feet to the south line of State Road No. 1843; thence with the south line of the road about 1400 feet in a westerly direction to a point opposite A. E. Darnell's southeast corner of his home lot; thence crossing the road to Darnell's corner and with his east line N 17-24 E 411.25 feet to a monument, Darnell's northeast corner; thence N 72-36 W 183.31 feet to Darnell's northwest corner; thence with Darnell's west line S 17-24 W 399.57 feet to the north line of State Road No. 1843; thence continuing S 17-34 W 60 feet to the south line of the road; thence along the south line of the road in a westerly direction about 1400 feet to a point where the west line of State Road No. 1842 extended south intersects the south line of State Road No. 1843; thence in a northerly direction about 60 feet to the beginning."

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of April, 1973.

H. B. 693

CHAPTER 223

AN ACT TO AMEND THE CHARTER OF THE TOWN OF BOONVILLE
TO REGULATE THE PRESENTATION OF CLAIMS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 44, Private Laws of 1895, is amended by adding a new section 15, to read as follows:

"All claims or demands against the Town of Boonville arising in tort shall be presented to the governing body of the Town or the Mayor, in writing, signed by the claimant, his attorney or agent, within ninety days after the claim or demand is due or the cause of action arose. No suit or action shall be brought within ten days or after the expiration of twelve months from the time the claim is presented. If the claim is not presented within ninety days after the claim or demand is due or the cause of action arose, and if suit is not instituted within twelve months thereafter, the claim and action thereon shall be barred."

Sec. 1 1/2. Chapter 44, Private Laws of 1895, is further amended by renumbering present sections 15 and following accordingly.

Sec. 2. This act shall apply to claims and actions arising after the ratification of this act.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of April, 1973.

H. B. 698

CHAPTER 224

AN ACT AUTHORIZING THE CREATION OF THE WILMINGTON
TRANSIT AUTHORITY.

The General Assembly of North Carolina enacts:

Section 1. Wilmington Transit Authority; Creation; Membership. The City of Wilmington may, by ordinance, create a transit authority (hereinafter sometimes referred to as the "Authority"). The official name of the Authority shall be "Wilmington Transit Authority". It shall be a body corporate and politic. It shall consist of three, five or seven members as determined by the Council of the City of Wilmington.

Members of the Authority shall reside within the territorial jurisdiction of the Authority as hereinafter set out. They shall be appointed by the Mayor and Council of the City of Wilmington. All appointments shall be for a term of three years, except that as to those members first appointed as nearly as possible, one-third shall be appointed for a one-year term, one-third shall be appointed for a two-year term, and one-third shall be appointed for a three-year term. The date from which regular three-year terms shall run shall be established by ordinance. Appointments to fill vacancies occurring during the regular terms shall be made by the Mayor and Council. The appointments of all members shall run until their successors are appointed and qualified.

The members of the Authority shall elect a chairman and vice-chairman from the membership of the Authority. They shall also elect a secretary who may, or may not, be a member of the Authority.

A majority of the members shall constitute a quorum for the transaction of business and an affirmative vote of the majority of the members present at a meeting of the Authority shall be required to constitute action of the Authority.

Members of the Authority shall receive such compensation, if any, as may be fixed by the Council of the City of Wilmington.

Sec. 2. Purpose of the Authority. The purpose of the Authority shall be to provide for a safe, adequate and convenient Public Transportation System for the City of Wilmington and its immediate environs through the granting of franchises, ownership and leasing of terminals, buses and other transportation facilities and equipment, and otherwise through the exercise of the powers and duties conferred upon it.

Sec. 3. General Powers of the Authority. The general powers of the Authority shall be:

- (1) To sue and be sued.
- (2) To have a seal.
- (3) To make rules and regulations, not inconsistent with this act, for its organization and internal management.
- (4) To employ persons deemed necessary to carry out functions and duties assigned to them by the Authority and to fix their compensation, within the limit of available funds.
- (5) With the approval of the City Manager, to use officers, employees, agents and facilities of the City on such basis as may be agreed upon.
- (6) To retain and employ counsel, auditors, engineers and private consultants on an annual salary, contract basis, or otherwise for rendering professional or technical services and advice.
- (7) To acquire, maintain and operate such buildings, structures and facilities as may be necessary or convenient for the operations of the Authority.
- (8) To make or enter into contracts, agreements, deeds, leases, conveyances or other instruments, including contracts and agreements with the United States and the State of North Carolina.
- (9) To surrender to the City any property no longer required by the Authority.
- (10) To make plans, surveys and studies of transit facilities within the territorial jurisdiction of the Authority and to prepare and make recommendations in regard thereto.
- (11) To enter into and perform contracts with public transportation companies with respect to the operation of public passenger transportation.
- (12) To issue certificates of public convenience and necessity; to grant franchises and enter into franchise agreements and in all respects to regulate the operation of buses and other methods of public passenger transportation within the territorial jurisdiction of the Authority as fully as the City of Wilmington is now or hereafter empowered to do within the territorial jurisdiction of the City of Wilmington.
- (13) To enter into and perform contracts to operate public transportation services and facilities and to own or lease property, facilities and equipment necessary or convenient therefor, and to rent, lease or otherwise sell the right to do so to any person, public or private. Further, to the extent authorized by ordinance of the City of Wilmington, to obtain grants, loans and assistance from the United States, the State, any public body, or any private source whatsoever,

including, but not limited to, the Urban Mass Transportation Act of 1964, as heretofore or hereafter amended.

(14) To do all things necessary or convenient to carry out its purpose and for the exercise of the powers granted to the Authority.

Sec. 4. Authority of Utilities Commission Not Affected. Nothing in this act shall be construed to limit or otherwise affect the power or authority of the North Carolina Utilities Commission or the right of appeal to the North Carolina Utilities Commission as provided by law.

Sec. 5. Territorial Jurisdiction. The jurisdiction of the Authority shall extend to all local public passenger transportation operating within the City of Wilmington and its environs, as now or hereafter established. It shall not have jurisdiction over public transportation subject to the jurisdiction of and regulated by the I.C.C.

Sec. 6. Fiscal Accountability. The Authority shall be fiscally accountable to the City of Wilmington and the Council shall have authority to examine all records and accounts of the Authority at any time.

Sec. 7. Funds. The establishment and operation of a Transit Authority as herein authorized is a governmental function and a public purpose and the City of Wilmington is hereby authorized to appropriate funds to support the establishment and operation of the Transit Authority. The City of Wilmington may also dedicate, sell, convey, donate or lease any of its interest in any property to the Authority. Further, the Authority is hereby authorized to establish such license and regulatory fees and charges as it may deem appropriate, subject to the approval of the Council. If the Council finds that the funds otherwise available are insufficient, it may call a special election without a petition and submit to the qualified voters of the City the question of whether or not a special tax shall be levied and/or bonds issued, specifying the maximum amount thereof, for the purpose of acquiring lands, buildings, equipment and facilities and for the operations of the Transit Authority.

Sec. 8. Effect on Existing Franchises and Operations. In the event a Transit Authority is established under the authority of this act, any existing franchises granted by the City of Wilmington shall continue in full force and effect until legally terminated; further, all ordinances and resolutions of the City of Wilmington regulating bus operations shall continue in full force and effect until superseded by regulations of the Transit Authority.

Sec. 9. Termination. The Council of the City of Wilmington shall have the authority to terminate the existence of the Authority at any time. In the event of such termination, all property and assets of the Authority shall automatically become the property of the City of Wilmington and the City of Wilmington shall succeed to all rights, obligations and liabilities of the Authority.

Sec. 10. Insofar as the provisions of this act are not consistent with the provisions of any other act or law, public or private, the provisions of this act shall be controlling.

Sec. 11. This act shall take effect from and after its ratification.

In the General Assembly read three times and ratified, this the 17th day of April, 1973.

H. B. 703

CHAPTER 225

AN ACT TO PROVIDE FOR THE NOMINATION AND ELECTION OF THE MEMBERS OF THE BOARD OF EDUCATION OF CARTERET COUNTY AMENDING CHAPTER 625 OF THE SESSION LAWS OF 1967.

The General Assembly of North Carolina enacts:

Section 1. Section 4 of Chapter 625 of the Session Laws of 1967 is hereby amended by rewriting the same to read as follows:

"Section 4. In case of a vacancy on the Board of Education of Carteret County caused by death, resignation, change of residence, failure to qualify, or for any other cause whatsoever, the vacancy shall be filled for the unexpired term by the county's Executive Committee of the political party of the member who vacated the office, and such appointment shall be for the unexpired term of the member causing the vacancy, and said vacancy shall be filled within thirty days from the date the vacancy occurs."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of April, 1973.

H. B. 705

CHAPTER 226

AN ACT TO PROVIDE FOR THE ANNEXATION AND CONSOLIDATION OF MORGANTON AND GLEN ALPINE, UPON A VOTE OF THE PEOPLE THEREIN.

The General Assembly of North Carolina enacts:

Section 1. (a) The Town Council of the Town of Glen Alpine and the City Council of the City of Morganton, North Carolina, are hereby authorized to call for a special election on the question of consolidating the Town of Glen Alpine, the City of Morganton, and the area lying between the two municipalities, into the City of Morganton, North Carolina, to form a single municipality, and a vote in favor of such consolidation shall constitute a vote for consolidation into the City of Morganton, and the City of Morganton shall assume the obligations of the Town of Glen Alpine. Such special election shall be conducted in the City of Morganton, the Town of Glen Alpine, and in the remainder of the described area, by the Board of Elections of Burke County.

(b) No new or special registration of voters shall be required for such special election. Registration books of the two municipalities shall be used in conducting the election in each respective municipality, and the registration books of Burke County shall be used in conducting the election in the remainder of the described area. The existing precincts and polling places shall be used in the two municipalities, and the Board of Elections of Burke County shall establish a polling place in the remainder of the described area.

(c) The Board of Elections of Burke County shall cause to be published at least once in each of the sixth, fifth, and fourth calendar weeks preceding the day of the special election, in the Morganton News Herald, a notice of the registration and special election. Such notice shall include the time and places of registration; the polling places; the date of challenge day; the date of the special election; a general description of the area within which the election is to be conducted; and a statement that those voters who are registered to vote in

municipal elections in the Town of Glen Alpine and the City of Morganton, and those voters residing between the two municipalities in the area described herein who are then registered to vote in County or City elections shall not be required to register again in order to vote in the special election.

(d) For such special election, the Board of Elections of Burke County shall provide ballots which contain the words "FOR Consolidation of Glen Alpine, Morganton, and the area lying between the two municipalities" and "AGAINST Consolidation of Glen Alpine, Morganton, and the area lying between the two municipalities", with appropriate squares so that each voter may make his cross (X) mark to indicate his preference.

(e) Following such special election, the votes in each of the municipalities shall be canvassed separately, and the results thereof certified by the Board of Elections of Burke County. The votes in the remainder of the described area shall be canvassed and certified separately by the County Board of Elections. The Board of Elections shall meet on the day following the special election to determine and declare the results thereof.

Sec. 2. If a majority of the votes cast in the special election in the Town of Glen Alpine and the City of Morganton and the area lying in between shall be "FOR Consolidation of Glen Alpine, Morganton, and the area in between," consolidation shall become effective on tie last day of the municipal fiscal year consolidation shall become effective on the last day of the municipal fiscal year of the City of Morganton after the date of certification of the results of said election, and the Town of Glen Alpine shall be abolished and cease to exist as of the above date.

Sec. 3. If a majority of the votes cast in the Town of Glen Alpine are cast "AGAINST Consolidation of Glen Alpine, Morganton, and the area in between", then consolidation shall not be effective.

Sec. 4. If a majority of the votes cast in the City of Morganton are "AGAINST Consolidation of Glen Alpine, Morganton, and the area in between", then consolidation shall not become effective.

Sec. 5. If a majority of the votes within the Town of Glen Alpine and the City of Morganton are "FOR Consolidation of the Town of Glen Alpine, City of Morganton, and the area lying in between", consolidation shall become effective unless the votes "AGAINST Consolidation of the Town of Glen Alpine, City of Morganton, and the area in between" cast by those voters residing in the area between the Town of Glen Alpine and the City of Morganton when added to and consolidated with the votes within the town of Glen Alpine and the City of Morganton "AGAINST Consolidation of the Town of Glen Alpine, and the City of Morganton, and the area in between," constitute a majority of all voters voting in all three areas, in which event said election shall fail, and consolidation will not be effective.

Sec. 6. In the event of a favorable vote for consolidation as provided in Section 5 herein, then:

(a) All property, real and personal and mixed, including the accounts receivable, belonging to the Town of Glen Alpine shall vest in, belong to, and be the property of the City of Morganton. The governing body of the Town of Glen Alpine is hereby authorized and directed to take such actions and to execute such documents that will carry into effect the provisions and intent of this section.

(b) All judgments, liens, rights of liens, and causes of action of any nature in

favor of the Town of Glen Alpine, shall vest in and inure to the benefit of the City of Morganton.

(c) All taxes, assessments, water or sewage charges, and other charges of fees owing the Town of Glen Alpine shall be owed to and collected by the City of Morganton.

(d) All actions, suits, and proceedings pending against, or having been instituted by, the Town of Glen Alpine, shall not be abated by this act, or by the consolidation herein provided for, that all such actions, suits, and proceedings shall be continued and completed in the same manner as if consolidation had not occurred, and the City of Morganton shall be a party to all such actions, suits, and proceedings in the place and stead of the Town of Glen Alpine, and shall pay or cause to be paid any judgments rendered against the Town of Glen Alpine in any such actions, suits, or proceedings. No new process need be served in such action, suit, or proceeding.

(e) All obligations of the Town of Glen Alpine, including outstanding indebtedness, shall be assumed by the City of Morganton. All such obligations and outstanding indebtedness are hereby constituted obligations and indebtedness of the City of Morganton, and the full faith and credit of the City of Morganton shall be deemed to be pledged for the punctual payment of the principal and the interest on all general obligations, bonds, and bond anticipation notes of the Town of Glen Alpine, and all the taxable property in the City of Morganton, as well as that formerly located within the Town of Glen Alpine, shall be and remain subject to taxation of such payment.

(f) All ordinances of the Town of Glen Alpine shall continue in full force and effect in the area to which they apply, as ordinances of the City of Morganton until repealed or amended by the governing body of the City of Morganton.

(g) All franchises heretofore granted by the Town of Glen Alpine which are still in force shall continue as valid franchises of the City of Morganton for the purposes granted within the area formerly comprising the Town of Glen Alpine, but shall not hereby be constituted valid franchises for any other portion of the corporate limits of the City of Morganton.

(h) All boards and commissions appointed by the City of Morganton shall have jurisdiction over similar functions, exercised by the boards and commissions appointed by the Town of Glen Alpine.

(i) The Town of Glen Alpine is hereby abolished as of the date of consolidation.

(j) The code of ordinances of the City of Morganton in effect as of the date of consolidation is herein specified and hereby given effect within that portion of the corporate limits of the City of Morganton which was formerly unincorporated.

Sec. 7. In the event of consolidation pursuant to this act, the City of Morganton shall immediately upon the effective date of consolidation, provide all city services being presently provided in the City of Morganton to the citizens in the Town of Glen Alpine and the area lying in between, with the exception of sewage facilities. The City of Morganton shall, in addition, immediately initiate engineering studies as soon as reasonably feasible to provide sewage service to the residents of the Town of Glen Alpine, and the area lying between the City of Morganton and the Town of Glen Alpine, and shall within two years from date of consolidation have under contract facilities to

provide said areas sewage services on substantially the same basis as said services are presently provided within the corporate limits of the City of Morganton.

Sec. 8. The area herein referred to as lying between the Town of Glen Alpine and the City of Morganton is bounded and described as follows:

BEGINNING at the intersection of the northern right-of-way margin of Interstate 40 and the southern right-of-way margin of SR #1150, and runs thence with the north right-of-way margin of Interstate 40 to a point 200 feet West of the right-of-way of SR #1149 (also known as the Conley Road); thence in a northerly direction with a line 200 feet West to the right-of-way of SR #1149 to a point 200 feet West of where the right-of-way of SR #1149 intersects with the boundary of the Town of Glen Alpine; thence with the easternmost boundary of the Town of Glen Alpine, until said eastern boundary intersects at a point 200 feet West of SR #1147 (also known as Water Mill Road); thence in a northerly direction 200 feet West of SR #1147 until it intersects with the center of Catawba River; thence in an easterly direction with Catawba River to a point where the center of Catawba River intersects with the present city limits of the City of Morganton at a point approximately 1000 feet North of Coulter Street; thence following the Western limits of the City of Morganton as it meanders to the BEGINNING.

Sec. 9. From and after the effective date of annexation of the above described area, the citizens and property therein shall be subject to the provisions of G.S. 160-452(e).

Sec. 10. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of April, 1973.

H. B. 707

CHAPTER 227

AN ACT TO REPEAL CHAPTER 81 OF THE PRIVATE LAWS OF 1883
AND TO PROVIDE FOR MUNICIPAL ELECTIONS IN THE TOWN OF
ENOCHSVILLE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 81 of the Session Laws of 1883 is hereby repealed and the corporate limits of the Town of Enochsville, as provided for in Chapter 185 of the Laws of 1876-77, reestablished.

Sec. 2. Beginning in November of 1973, municipal elections in the Town of Enochsville shall be held pursuant to the provisions of Articles 23 and 24 of Chapter 163 of the General Statutes. The elections shall be held on a nonpartisan basis and determined by a simple plurality. There shall be no primary elections.

Sec. 3. Municipal elections in the Town of Enochsville shall be conducted by and under the supervision of the Rowan County Board of Elections.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of April, 1973.

H. B. 812

CHAPTER 228

AN ACT TO AMEND ARTICLE 7, PART 1 OF CHAPTER 160A, OF THE GENERAL STATUTES OF NORTH CAROLINA PROVIDING FOR THE ORGANIZATION AND REORGANIZATION OF CITY GOVERNMENT AS IT RELATES TO THE CITY OF CHARLOTTE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-146 is hereby amended by deleting the section in its entirety and rewriting the same to read as follows:

“§ 160A-146. *Council to organize city government.*—The council may create, change, abolish and consolidate offices, positions, departments, boards, commissions, and agencies of the city government, establish the length of terms of members of boards, commissions, and agencies of city government, and generally organize and reorganize the city government in order to promote orderly and efficient administration of city affairs, subject to the following limitations:

- (1) The council may not abolish any office, position, department, board, commission, or agency established and required by law;
- (2) The council may not combine offices or confer certain duties on the same officer when such action is specifically forbidden by law;
- (3) The council may not discontinue or assign elsewhere any functions or duties assigned by law to a particular office, position, department, or agency.”

Sec. 2. This act shall apply only to the City of Charlotte.

Sec. 3. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of April, 1973.

S. B. 64

CHAPTER 229

AN ACT TO AMEND G.S. 14-32, G.S. 14-33, and G.S. 14-34 TO INCREASE PUNISHMENT FOR AGGRAVATED ASSAULTS AND TO AMEND G.S. 14-32(c) TO MAKE ASSAULT WITH ANY DEADLY WEAPON WITH INTENT TO KILL A FELONY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-32(a) is amended by striking out the number “10” as it appears immediately after the word “than” and immediately before the word “years” and substituting therefor the number “20”.

Sec. 2. G.S. 14-32(b) is amended by striking out the word “five” as it appears immediately after the word “than” and immediately before the word “years” and substituting therefor the number “10”.

Sec. 3. G.S. 14-32(c) is hereby amended by striking out the word “firearm” as it appears immediately after the words “another person with a” and immediately before the words “with intent to kill” and substituting therefor the words “deadly weapon”, and is further amended by striking out the

word "five" as it appears immediately before the word "years" and substituting the number "10".

Sec. 4. G.S. 14-33 is hereby rewritten to read as follows:

"§ 14-33. *Misdemeanor assaults, batteries, and affrays; simple and aggravated; punishments.*—(a) Any person who commits a simple assault or a simple assault and battery or participates in a simple affray is guilty of a misdemeanor punishable by a fine not to exceed fifty dollars (\$50.00) or imprisonment for not more than 30 days.

(b) Unless his conduct is covered under some other provision of law providing greater punishment, any person who commits any assault, assault and battery, or affray is guilty of a misdemeanor punishable by a fine, imprisonment for not more than two years, or both such fine and imprisonment if, in the course of the assault, assault and battery, or affray, he:

- (1) Inflicts, or attempts to inflict, serious injury upon another person or uses a deadly weapon; or
- (2) Assaults a female, he being a male person over the age of 18 years; or
- (3) Assaults a child under the age of 12 years; or
- (4) Assaults a public officer while the officer is discharging or attempting to discharge a duty of his office."

Sec. 5. This act does not apply to any offense committed prior to the effective date of this act, and any such offense is punishable as provided by the statute in force at the time such offense was committed.

Sec. 6. This act shall become effective January 1, 1974.

In the General Assembly read three times and ratified, this the 18th day of April, 1973.

S. B. 210

CHAPTER 230

AN ACT RELATING TO THE QUALIFICATIONS OF JURORS SO AS TO PROVIDE THAT A PERSON WHO HAD PLED GUILTY TO A FELONY SHALL NOT BE QUALIFIED TO SERVE ON A JURY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 9-3 is amended by inserting in the fifth line thereof between the words "pleaded" and "nolo" the words "guilty or".

Sec. 2. G.S. 9-3 is further amended in line 6 thereof following the word "felony" and before the comma by adding the words "(or if convicted of a felony or having pleaded guilty or nolo contendere to an indictment charging a felony have had their citizenship restored pursuant to law)".

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of April, 1973.

H. B. 343

CHAPTER 231

AN ACT TO AMEND THE MACHINERY ACT TO REQUIRE THAT WHEN ONE TAXING UNIT COLLECTS TAXES FOR ANOTHER, THE TEN PERCENT COLLECTION FEE SHALL BE PAID INTO THE GENERAL FUND OF THE COLLECTING UNIT.

The General Assembly of North Carolina enacts:

Section 1. Article 26 of Chapter 105 of the General Statutes is hereby amended by rewriting G.S. 105-364(c)(1) to read as follows:

“(1) In acting on a tax receipt and certificate under the provisions of this section, the tax collector receiving them shall, in addition to collecting the amount of taxes certified as due, also impose a fee equal to ten percent (10%) of the amount of taxes certified as unpaid, to be paid into the general fund of his taxing unit.”

Sec. 2. This act shall become effective January 1, 1974.

In the General Assembly read three times and ratified, this the 18th day of April, 1973.

H. B. 525

CHAPTER 232

AN ACT TO AMEND CHAPTER 909 OF THE 1971 SESSION LAWS, IN ORDER TO MAKE CLARIFYING AND TECHNICAL AMENDMENTS TO FACILITATE AND EXPEDITE THE AWARD OF STATE GRANTS TO UNITS OF GOVERNMENT FOR CONSTRUCTION AND IMPROVEMENT OF WASTEWATER TREATMENT WORKS, WASTEWATER COLLECTION SYSTEMS AND WATER SUPPLY SYSTEMS.

The General Assembly of North Carolina enacts:

Section 1. Subdivision(4), Section 8, Chapter 909 of the 1971 Session Laws, is amended to read as follows:

“(4) The applicant has agreed by official resolution to adopt and place into effect on or before completion of the project a schedule of fees and charges which will provide adequate funds for proper operation, maintenance and administration of the project.”

Sec. 2. Section 9, Chapter 909 of the 1971 Session Laws, is amended to read as follows:

“Sec. 9. *Application for grant; environmental impact statement; notice; hearing.*—(a) Application. All applications for grants for water supply systems shall be filed with the State Board of Health; and all applications for grants for wastewater treatment works or wastewater collection systems shall be filed with the Board of Water and Air Resources. Every application for a grant from county allotment funds under this act shall so state and shall identify the county. Every applicant shall also file with the Department of Administration such information concerning the application as the Department of Administration may require by rules or regulations adopted pursuant to this act.

The Department of Administration, the State Board of Health, and the Board of Water and Air Resources shall develop jointly and adopt a standard form of application for grants under this act. The information required to be set forth in the application shall be sufficient to permit the respective agencies to determine

the eligibility of the applicant and to establish the priority of the application, as set forth in this act.

Any applicant shall furnish information in addition or supplemental to the information contained in its application upon request by the receiving agency.

(b) Environmental impact statement. Every applicant shall file with its application a statement setting forth the impact that the project for which grant funds are sought will have upon the environment of the area within which the project is proposed to be located. The statement shall set forth the impact of the project upon water resources, other natural resources, land use patterns, and such other factors as the State Board of Health or the Board of Water and Air Resources shall require by rules and regulations adopted pursuant to this act.

(c) Notice. Within 60 days after the receipt of any application filed pursuant to Section 7(c)(2) or Section 7(d)(1), the receiving agency shall give notice of the application, sufficient to describe the nature, location and the extent of the project for which grant funds are sought, as follows:

- (1) Notice by first class mail to the governing body or chief executive officer of every local government unit located within the county or counties in which the project for which grant funds are sought is located or proposed to be located.
- (2) Notice by publication once in a newspaper published or having general circulation within the county or counties in which the project for which grant funds are sought is located or proposed to be located.

(d) Hearings. A public hearing shall be held by the receiving agency on any application filed pursuant to Section 7(c)(2) or Section 7(d)(1), in accordance with the provisions of this subsection, upon written request received by the agency within 15 days after mailing the notice required by this section from any person named in subsection(c)(1) of this section. A public hearing may be held by the receiving agency upon written request received within 15 days after the date of publication of the notice from any citizen or taxpayer who is a resident of the county or counties in which the project is or is proposed to be located if it appears that the public interest will be served by such hearing. The written request shall set forth each objection to the proposed project or other reasons for requesting a hearing on the application and shall contain the name and address of the person(s) submitting it. The receiving agency shall consider all written objections to the proposed project and other statements along with the application, including any significant adverse effects that the proposed project may have on the environment, and shall determine if the public interest will be served by a hearing. The determination by the receiving agency shall be conclusive; but all written requests for a hearing shall be retained as a permanent part of the records pertaining to the application, whether or not the request is granted. A hearing may be held regarding any application filed pursuant to Section 7(c)(1) or Section 7(d)(2) if the receiving agency determines that the public interest will be served by such a hearing.

- (1) Hearings pursuant to this subsection shall be held not less than 30 nor more than 60 days after receipt of request for hearing and shall be conducted by a permanent staff member to be designated by the respective receiving agencies.
- (2) The hearing shall be held in Wake County unless, in the judgment of the appropriate receiving agency, the public interest will best be served by holding the hearing in the county in which the project for which

grant funds are sought is located or proposed to be located. If the project is located or proposed to be located in two or more counties, such hearings shall be held in the county designated by the receiving agency.

- (3) Notice of the hearing shall be given as provided in subsection(c) of this section and shall be completed at least one week prior to the date of the hearing. The notice shall specify the time, place, and subject matter of the hearing.
- (4) Written or oral statements may be presented at any hearing. Persons entitled to submit a written statement or to make an oral presentation shall include any citizen, taxpayer, official of any agency or other entity of county or municipal government in the county or counties in which the project is located or is proposed to be located; any official of any agency or other entity of State or federal government; any official of any organization representing county or municipal government; and any officer or designated representative of a public or private organization which has as one of its principal aims the protection, preservation or conservation of the environment and natural resources. Persons desiring to make an oral presentation shall so advise the hearing officer prior to the time of the meeting; and the hearing officer may impose reasonable time limitations on oral presentations.
- (5) The hearings officer shall keep minutes of the meeting and shall deliver them, along with his report and with recommendations, if any, to the appropriate receiving agency within 30 days after the date of the meeting, and upon receipt of the minutes of the public hearing and the hearing officer's report and recommendations, if any, the receiving agency shall give due and careful consideration to all testimony and other facts presented at such hearing which are directly related to the grant application.
- (6) Any person named in subsection(d)(4) of this section may file a written statement or comments relative to the subject matter of the hearing with the appropriate receiving agency at any time within 10 days after the date of the hearing; and such written statement or comment shall be a part of the minutes of said hearing."

Sec. 3. Subsection(a), Section 10, Chapter 909 of the 1971 Session Laws, is amended to read as follows:

"(a) Determination. Determination of priorities to be assigned each eligible application shall be made semiannually by the appropriate receiving agency during each fiscal year. Every eligible application filed pursuant to Section 7(c)(1) or Section 7(d)(2) shall be considered by the receiving agency with every other application filed pursuant to Section 7(c)(1) or Section 7(d)(2), respectively, and eligible for consideration during the same priority period, to determine the priority to be assigned to such application. Every eligible application filed pursuant to Section 7(c)(2) or Section 7(d)(1) shall be considered by the receiving agency with every other application filed from within the same county pursuant to Section 7(c)(2) or Section 7(d)(1), respectively, and eligible for consideration during the same priority period, to determine the priority to be assigned to such application. Any application which does not contain information sufficient to permit the receiving agency to determine either the eligibility of the applicant or the priority to be assigned

the application shall not be deemed received for purposes of this section until such information is furnished by the applicant to the receiving agency."

Sec. 4. Subsection(b), Section 10, Chapter 909 of the 1971 Session Laws, is amended by striking the first sentence thereof, reading: "All applications for grants under this act received during each quarter of the fiscal year shall be assigned a priority for grant funds by the receiving agency."; and substituting in lieu thereof a sentence reading as follows:

"All applications for grants under this act eligible for consideration during each priority period shall be assigned a priority for grant funds by the receiving agency."

Sec. 5. Subsection(d), Section 10, Chapter 909 of the 1971 Session Laws, is amended to read as follows:

"(d) Failure to qualify. Any application filed pursuant to Section 7(c) or Section 7(d) that does not qualify for a grant as of the priority period in which the application was eligible for consideration by reason of the priority assigned the application shall be considered for a grant during the next succeeding priority period upon request of the applicant. If such application should again fail to qualify for a grant during the second priority period by reason of the priority assigned, the application shall receive no further consideration. An applicant may file a new application for a grant at any time, and may amend any pending application to include data or information which would tend to qualify the application for a higher priority."

Sec. 6. Chapter 909 of the 1971 Session Laws is amended by adding a new section immediately following Section 10 thereof, to be numbered Sec. 10.1, and to read as follows:

"Sec. 10.1. *Withdrawal of grant commitment.*—Failure of an applicant, within one year of the date of acceptance of a grant award, to (1) arrange for necessary financing of the proposed project, or (2) to award a contract for the construction of the proposed project, shall constitute sufficient cause for withdrawal of the grant commitment. Prior to withdrawal of a grant commitment, the appropriate receiving agency shall give due consideration to any extenuating circumstances presented by the applicant as reasons for its failure to arrange necessary financing or to award a contract, and the grant commitment may be extended for an additional period of time if, in the judgment of the receiving agency, such an extension is justified."

Sec. 7. *Effective date.*—This act shall become effective on July 1, 1973; provided, that all pending applications eligible for consideration for a grant during the fiscal year ending June 30, 1973, which failed to qualify for a grant by reason of the priority assigned the application, shall be reconsidered for a grant during the first priority period established pursuant to this act.

In the General Assembly read three times and ratified, this the 18th day of April, 1973.

H. B. 646

CHAPTER 233

AN ACT TO AMEND G.S. 14-197 BY DELETING THE REFERENCE TO STANLY COUNTY CONTAINED THEREIN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-197 is hereby amended by deleting from the sixth line thereof the word "Stanly".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of April, 1973.

H. B. 695

CHAPTER 234

AN ACT TO INCORPORATE THE HAW RIVER SANITARY DISTRICT INTO A MUNICIPALITY TO BE KNOWN AS THE TOWN OF HAW RIVER.

The General Assembly of North Carolina enacts:

Section 1. The inhabitants in the area hereinafter described are hereby constituted a body politic and corporate under the name of the "Town of Haw River", and are hereby vested with all the powers, rights, privileges, immunities, and authority granted by the Constitution and general laws of this State.

Sec. 2. The corporate boundaries of the Town of Haw River shall be:

BEGINNING at a monument located 200 feet east of the center of Secondary Road No. 1928 and 400 feet north of the center of U. S. Route No. 70, and running thence in an easterly direction along a line parallel with and 400 feet north of the center of U. S. Route No. 70 approximately 3,590 feet to a monument in the center of Back Creek; thence down the center of Back Creek, as it meanders in a southerly direction, approximately 2,360 feet to the center of the Southern Railway Company bridge crossing said Creek; thence westerly along the center of the main track of the Southern Railway Company 8,640 feet to a monument; thence South 2° 35' West 1,000 feet to a monument; thence westerly, along a line parallel with and 1,000 feet south of the center of the Southern Railway Company main track, a distance of approximately 4,030 feet to a monument 300 feet southeast of the center of N. C. Route No. 49; thence parallel with and 300 feet southeast of the center of N. C. Route No. 49 S South 47° 20' West 620 feet to a monument; thence South 0° 40' East approximately 400 feet to a monument 230 feet south of the center of Secondary Road No. 1942; thence parallel with and 230 feet south of Secondary Road No. 1942 South 89° 20' West approximately 520 feet to a monument 300 feet southeast of the center of N. C. Route No. 49; thence North 23° 40' West 2,154.5 feet to a monument; thence South 84° 30' West 58.4 feet to a monument in Hanover Road; thence South 85° 00' West 149 feet to a monument in Hanover Road; thence South 42° 45' West 108.5 feet to a monument in Hanover Road; thence South 52° 15' West 208 feet to a monument in Hanover Road; thence North 12° 45' West 359.5 feet to a monument; thence North 1° 45' East 385.0 feet to a monument; thence North 84° 00' West 31 feet to a monument; thence North 4° 45' East 617.0 feet to a monument in U. S. Route No. 70; thence North 23° 40' West 12.0 feet to a monument in the center of U. S. Route No. 70; thence North 72° 00' West 442.4 feet to a monument in the center of U. S. Route No.

70; thence North 0° 16' East 588.25 feet to a monument; thence North 73° 22' East 301.6 feet to a monument; thence North 85° 47' East 305.7 feet to a monument; thence South 6° 47' West 177.2 feet to a monument; thence South 7° 18' East 111.8 feet to a monument; thence South 28° 25' East 75.7 feet to a monument; thence North 23° 50' East 293.6 feet to a monument near the western edge of Quarry Street; thence North 73° 50' East approximately 600 feet crossing said Quarry Street to the center of Cemetery Street; thence along the center of Cemetery Street, South 85° 08' East 1001.73 feet to a point in the center of Cemetery Street; thence North 4° 34' East 20 feet to an iron stake, a corner between P. C. Beatty's property and City of Burlington property; thence along a line between the said Beatty's property and City of Burlington property, North 4° 34' East 289.51 feet to an iron stake, a corner with P. C. Beatty in the City of Burlington property line; thence along a line between the City of Burlington and P. C. Beatty, North 71° 23' East 544.5 feet to an iron stake; thence along a line between the City of Burlington and Mrs. K. B. Williamson's property, North 19° 22' West 70 feet to a point in the Haw River Sanitary District; thence with the Haw River Sanitary District along a line parallel with and 700 feet North of the center of Boundary Street, North 73° 50' East approximately 4617 feet to a monument in the center of Roma Road; thence with the center of Roma Road North 17° 35' West 290.0 feet to a monument corner with the lands of Matthew O. Dawson; thence South 71° 03' West 230.0 feet to a monument; thence along a line parallel with and 230 feet west of the center of Roma Road North 17° 35' West approximately 800 feet to a monument in the center of Hopedale Road; thence North 4° 35' West 230 feet to a monument; thence along a line parallel with and 230 feet north of the center of Hopedale Road North 35° 25' East approximately 1,180 feet to a monument; thence North 14° 12' 10" East approximately 360 feet to a monument in the center of Sherri Drive; thence along the center of Sherri Drive South 77° 47' East 250 feet to a monument 230 feet from the center of Keck Road; thence along a line 230 feet west of and parallel with the center of Keck Road the following courses and distances: North 2° 40' East 687.0 feet to a monument; North 2° 38' East 604 feet to a monument; North 4° 29' East approximately 1,359 feet to a monument in the center of Center Street; thence North 3° 25' West 550 feet to a monument; thence along a line parallel with and 550 feet north of Center Street North 86° 35' East approximately 1,000 feet to a monument 230 feet east of the center of N. C. Route No. 49; thence along a line parallel with and 230 feet east of the center of N. C. Route No. 49 the following courses and distances: South 3° 25' East 2,097 feet to a monument; South 3° 22' East 1,663.25 feet to a monument; thence South 62° 45' East approximately 370 feet to a monument in the center of Secondary Road No. 1927, the said monument is further identified as being 720 feet from the center of Secondary Road No. 1928 as measured along the center of the said Road No. 1927; thence South 2° 00' East approximately 720 feet to a monument 170 feet northeast of the center of Secondary Road No. 1925; thence parallel with and 170 feet northeast of the center of Secondary Road No. 1925 South 31° 00' East approximately 690 feet to a monument 170 feet north of the center of Secondary Road No. 1742; thence parallel with and 170 feet north of the center of Secondary Road No. 1742 South 84° 30' East 610 feet to a monument; thence South 15° 30' West approximately 1,420 feet to the point of

the BEGINNING and containing 1,016.5 Acres more or less, the same being 1.59 square miles.

Sec. 3. The Town shall operate under the mayor-council form of government. The council shall consist of five members to be elected as hereinafter provided, and the mayor shall be elected by the council from its membership. The councilmen shall be elected for a term of two years by the voters of the Town and the mayor shall be appointed for a term of two years.

Sec. 4. The elections for municipal officers in the Town of Haw River shall be nonpartisan and decided by a simple plurality. No primary election shall be held. The elections shall be held and conducted by the Alamance County Board of Elections, and except as otherwise provided herein, shall be held and conducted in accordance with Articles 23 and 24 of Chapter 163 of the General Statutes.

Sec. 5. A regular municipal election shall be held on Tuesday after the first Monday in November, 1973, and every two years thereafter for the election of the Town Councilmen. Vacancies occurring for any reason in the council shall be filled for the unexpired term by appointment by the remaining members of the council. A vacancy in the office of mayor shall be filled for the unexpired term by appointment by the council.

Sec. 6. The initial members of the Town Council shall be those persons presently serving as the Board of Commissioners of the Haw River Sanitary District. They shall serve until their successors are elected and qualified pursuant to this act. They shall appoint one of their members as mayor, who shall serve until his successor is appointed under this act.

Sec. 7. On June 1, 1973, at 12:00 Noon, the Haw River Sanitary District shall cease to exist as a body politic and corporate, and the Town of Haw River shall simultaneously be incorporated, and at that time all of the District's assets and liabilities shall be transferred to the Town of Haw River as provided in G.S. 130-156.3.

Sec. 8. The Haw River Sanitary District shall take all actions necessary to effect this transfer of the assets and liabilities of the District to the Town of Haw River by April 1, 1973.

Sec. 9. From and after June 1, 1973, the citizens and property in the Town of Haw River shall be subject to municipal taxes levied for the fiscal year beginning July 1, 1973, and the Town shall obtain from the County a record of property in the area herein incorporated which was listed for taxes as of January 1, 1973, and the businesses in the Town shall be liable for privilege licensee tax from the date of the privilege license tax ordinance.

Sec. 10. The Alamance County Board of Elections shall call and conduct a special election on Tuesday after the third Monday in May, 1973, to submit to the qualified voters in the area described in Section 2 of this act, the question whether such area shall be incorporated as a municipal corporation known as the Town of Haw River.

If the County Board of Elections deems it necessary, a new registration of voters within the area may be held. The registration books for this special election shall remain open through Friday preceding the election. The election shall be conducted in accordance with the applicable provisions of Articles 23 and 24 of Chapter 163 of the General Statutes and the provisions of this act.

The Board of Elections shall, at least 20 days before the registration period closes, cause public notice of the election to be posted at several public places in

the area to be incorporated, and such notice shall state the date of the election, the polling places, the hours the polls will be open, the names of the registrars and judges of elections, the date, places and hours of registration, and the purpose of the election. The same notice shall be published once a week for two weeks, beginning 20 days before the registration closes, in a newspaper having general circulation in the Haw River Sanitary District.

In the special election, the form of the ballot shall be that set out in G.S. 130-156.3. If a majority of those voting favor incorporation of the Town of Haw River, then Sections 1 through 9 of this act shall be in full force and effect. If a majority of those voting vote against incorporation of the Town of Haw River, then this act shall have no force and effect.

Sec. 11. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of April, 1973.

S. B. 184

CHAPTER 235

AN ACT RELATING TO THE PENALTY FOR SAFE CRACKING OR ATTEMPTED SAFE CRACKING SO AS TO REDUCE THE MINIMUM AND MAXIMUM PENALTIES THEREFOR.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-89.1 is rewritten to read as follows: "Any person who shall, by the use of explosives, drills, or tools, unlawfully force open or attempt to force open or 'pick' the combination of a safe or vault used for storing money or other valuables, shall, upon conviction thereof, receive a sentence, in the discretion of the trial judge, of not less than two years nor more than 30 years' imprisonment in the State penitentiary."

Sec. 2. This act shall apply to all offenses committed after its ratification and shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of April, 1973.

S. B. 323

CHAPTER 236

AN ACT TO AMEND G.S. 115-153 OF THE PUBLIC SCHOOL LAWS OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115-153 is amended by removing the period at the end of the first paragraph, inserting a semicolon in lieu thereof and adding the following clauses:

"Provided, that the State Board of Education shall require each applicant for an initial certificate or graduate certificate to demonstrate his or her academic and professional preparation by achieving a prescribed minimum score at least equivalent to that required by the Board on November 30, 1972, on a standard examination appropriate and adequate for that purpose;

Provided, further, that in the event the Board shall specify the National

Teachers Examination for this purpose, the required minimum score shall not be lower than that which the Board required on November 30, 1972."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of April, 1973.

S. B. 516**CHAPTER 237**

AN ACT TO AUTHORIZE THE WELDON SCHOOL ADMINISTRATIVE UNIT TO LEASE CERTAIN PROPERTY TO THE BOARD OF COMMISSIONERS OF HALIFAX COUNTY TO BE USED FOR PUBLIC PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. The Weldon City School Board or the Weldon School Administrative Unit is hereby authorized and empowered to lease to the Board of Commissioners of Halifax County certain property described as follows:

"BEGINNING at a point South of the school buildings at the Weldon High School site, which said point is in the Western line of Sco-Co Park Subdivision, thence South 42-52' West 75 feet, thence South 8-18' West 206.3 feet, thence South 64-35' East 105.3 feet, thence South 64-35' East 105.3 feet, thence South 67-18' East 117 feet, thence South 31-25' West 158.1 feet, thence South 39-42' West 195.8 feet, thence South 44-09' West 173.2 feet, thence North 38-11' West 508.4 feet, thence North 77-46' West 138.8 feet, thence North 04-48' West 405.1 feet, thence North 89-East 622.5 feet to the point of beginning. Containing 8.2 acres, more or less."

Sec. 2. The Weldon City School Board or the Weldon School Administrative Unit is authorized and empowered to enter into said lease agreement with the Board of Commissioners of Halifax County upon such terms and conditions as the party shall agree upon, including such provisions, if any, as to the termination or forfeiture of the lease and to exercise all such power and authority as may be necessary to complete said lease agreement, including the power and authority to enter into agreements of change or modification after the said lease has been executed.

Sec. 3. The said lease shall recite a consideration of one dollar (\$1.00) and a further consideration of the public use and benefits that will accrue in using the leased property and shall be for a period not in excess of 30 years.

Sec. 4. The said lease may be agreed upon and entered into notwithstanding the provisions of G.S. 115-126 and no member of the school board, nor shall the school board as a public corporation or subdivision of government, assume or have any legal liability for and on account of the execution of the said lease.

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of April, 1973.

H. B. 358

CHAPTER 238

AN ACT TO AMEND G.S. 14-72 TO MAKE THE THEFT OF ANY FIREARM A FELONY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-72(b) (3) is hereby amended to read as follows:

“(3) Of any explosive or incendiary device or substance. As used in this section, the phrase ‘explosive or incendiary device or substance’ shall include any explosive or incendiary grenade or bomb; any dynamite, blasting powder, nitroglycerin, TNT, or other high explosive; or any device, ingredient for such device, or type or quantity of substance primarily useful for large-scale destruction of property by explosive or incendiary action or lethal injury to persons by explosive or incendiary action. This definition shall not include fireworks; or any form, type, or quantity of gasoline, butane gas, natural gas, or any other substance having explosive or incendiary properties but serving a legitimate non-destructive or nonlethal use in the form, type, or quantity stolen.”

Sec. 2. G.S. 14-72(b) is hereby further amended by adding a new subsection (4) to read as follows:

“(4) Of any firearm. As used in this section, the term ‘firearm’ shall include any instrument used in the propulsion of a shot, shell or bullet by the action of gunpowder or any other explosive substance within it. A ‘firearm’, which at the time of theft is not capable of being fired, shall be included within this definition if it can be made to work. This definition shall not include air rifles or air pistols.”

Sec. 3. This act shall only apply to crimes committed after July 1, 1973.

Sec. 4. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 19th day of April, 1973.

H. B. 433

CHAPTER 239

AN ACT TO PROVIDE THAT BANKS, EXECUTORS, ADMINISTRATORS, GUARDIANS, TRUSTEES, AND INSURANCE COMPANIES MAY INVEST IN ANY NOTES, BONDS, OR DEBENTURES ISSUED BY ANY FARM CREDIT INSTITUTION PURSUANT TO THE FARM CREDIT ACT OF 1971.

The General Assembly of North Carolina enacts:

Section 1. G.S. 36-1 is hereby amended by adding on line six thereof immediately after the comma following the word “banks” and immediately prior to the word “or” the following words:

“or any notes, bonds, debentures, or similar type obligations, consolidated or otherwise, issued by any farm credit institution pursuant to authorities contained in the Farm Credit Act of 1971 (Public Law 92-181), as amended”, and by inserting a comma immediately thereafter.

Sec. 2. G.S. 53-43.1 is hereby amended by adding on line eight thereof immediately after the comma following the word “banks” and immediately prior to the word “shall” the following words:

“or any notes, bonds, debentures, or similar type obligations, consolidated or otherwise, issued by any farm credit institution pursuant to authorities

contained in the Farm Credit Act of 1971 (Public Law 92-181), as amended", and by inserting a comma immediately thereafter.

Sec. 3. G.S. 53-44.1 is hereby amended by adding on line seven thereof immediately after the comma following the word "banks" and immediately prior to the word "shall" the following words:

"or any notes, bonds, debentures, or similar type obligations, consolidated or otherwise, issued by any farm credit institution pursuant to authorities contained in the Farm Credit Act of 1971 (Public Law 92-181), as amended", and by inserting a comma immediately thereafter.

Sec. 4. G.S. 53-60 is hereby amended by adding at the end thereof between the word "sixteen" and the period, a comma and the following words:

"or any notes, bonds, debentures, or similar type obligations, consolidated or otherwise, issued by any Farm Credit institution pursuant to authorities contained in the Farm Credit Act of 1971 (Public Law 92-181), as amended".

Sec. 5. G.S. 58-79(a)(5), as the same appears in the 1971 Cumulative Supplement to Volume 2B of the General Statutes, is hereby amended by adding on line three thereof, at the end of the first sentence, a new sentence to read as follows:

"Any notes, bonds, debentures, or similar type obligations, consolidated or otherwise, issued by any farm credit institution pursuant to authorities contained in the Farm Credit Act of 1971 (Public Law 92-181), as amended".

Sec. 6. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of April, 1973.

H. B. 491

CHAPTER 240

AN ACT TO AMEND GENERAL STATUTES 7A-100 TO PROVIDE FOR AN ACTING CLERK OF SUPERIOR COURT WHEN THE CLERK DIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-100(a) is amended by adding the following sentence at the end thereof:

"In cases of death or resignation of the clerk, the senior regular resident superior court judge, pending appointment of a successor clerk, may appoint an acting clerk of superior court for a period of not longer than 30 days."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of April, 1973.

H. B. 496

CHAPTER 241

AN ACT RELATING TO ADMINISTERING THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 135-3 (8)b, as the same appears in the 1971 Cumulative Supplement to the General Statutes, is hereby amended by the deletion of the words "on or after July 1, 1971, and" in lines 2 and 3 of the first sentence thereof.

Sec. 2. G.S. 135-4 (d) is hereby amended by rewriting the subdivision to read as follows:

"(d) Any member may, up to his date of retirement and within one year thereafter, request the Board of Trustees to modify or correct his prior service credit."

Sec. 3. G.S. 135-5 (a)(2), as the same appears in the 1971 Cumulative Supplement to the General Statutes, is hereby amended by striking out all of the subdivision preceding the colon in line 4 and inserting in lieu thereof the words: "A member in service who attains age 65 shall make timely application for retirement, in accordance with (1) above, to be effective no later than the first of July coincident with or next following his 65th birthday".

Sec. 4. G.S. 135-5 (f), as the same appears in the 1971 Cumulative Supplement to the General Statutes, is hereby amended by striking out all of the second sentence which precedes the semicolon in line 9 of the subdivision and inserting in lieu thereof the words: "Upon payment of such sum his membership in the System shall cease and, if he thereafter again becomes a member, no credit shall be allowed for any service previously rendered except as provided in G.S. 135-4".

Sec. 5. G.S. 135-5 (1), as the same appears in the 1971 Cumulative Supplement to the General Statutes, is hereby amended by striking out all of the first sentence thereof, which follows the caption "Death Benefit", and substituting the following:

"Upon receipt of proof, satisfactory to the Board of Trustees, of the death, in service, of a member who had completed at least one full calendar year of membership in the System, there shall be paid to such person as he shall have nominated by written designation duly acknowledged and filed with the Board of Trustees, if such person is living at the time of the member's death, otherwise to the member's legal representatives, a death benefit. Such death benefit shall be equal to the greater of:

- (1) The compensation on which contributions were made by the member during the calendar year preceding the year in which his death occurs, or
- (2) The compensation on which contributions were made by the member during the twelve-month period ending on the last day of the month preceding the month in which his death occurs;

subject to a maximum of fifteen thousand dollars (\$15,000)."

Sec. 6. G.S. 135-5 (1), as the same appears in the 1971 Cumulative Supplement to the General Statutes, is further amended by rewriting the third paragraph thereof to read as follows:

"Notwithstanding the above provisions, the Board of Trustees may and is specifically authorized to provide the death benefit according to the terms and conditions otherwise appearing in this subsection in the form of group life

insurance, either (1) by purchasing a contract or contracts of group life insurance with any life insurance company or companies licensed and authorized to transact business in this State for the purpose of insuring the lives of members in service, or (2) by establishing a separate reserve fund under the Retirement System for such purpose. To that end the Board of Trustees is authorized, empowered and directed to investigate the desirability of utilizing group life insurance by either of the foregoing methods for the purpose of providing the death benefit. If a separate reserve fund is established, it shall be operated in accordance with rules and regulations adopted by the Board of Trustees and all investment earnings on the reserve fund shall be credited to such fund."

Sec. 7. G.S. 135-5 (o), as the same appears in the 1971 Cumulative Supplement to the General Statutes, is amended by rewriting the third paragraph to read as follows:

"As of December 31, 1971, an increase in retirement allowances shall be calculated and made effective July 1, 1972, in the manner described in the preceding paragraph. As of December 31st of each year after 1971, the Ratio (R) of the Consumer Price Index to such index one year earlier shall be determined, and each beneficiary on the retirement rolls as of July 1st of the year of determination shall be entitled to have his allowance increased effective on July 1st of the year following the year of determination by the same percentage of increase indicated by the Ratio (R) calculated to the nearest tenth of one per centum, but not more than four per centum (4%); provided that any such increase in allowances shall become effective only if the additional liabilities on account of such increase do not require an increase in the total employer rate of contributions."

Sec. 8. G.S. 135-6 (c) is amended by rewriting the entire subsection to read as follows:

"(c) Compensation of Trustees.—The trustees shall be paid during sessions of the board at the prevailing rate established for members of State boards and commissions, and they shall be reimbursed for all necessary expenses that they incur through service on the board."

Sec. 9. G.S. 135-7(a)(6), as the same appears in the 1971 Cumulative Supplement to the General Statutes, is amended by rewriting the entire subdivision to read as follows:

"(6) Obligations of any company incorporated within the United States if such obligations bear one of the three highest ratings of at least one nationally recognized rating service and do not bear a rating below the three highest by any such rating service which rates the particular security; and"

Sec. 10. G.S. 135-7.2(8), as the same appears in the 1971 Cumulative Supplement to the General Statutes, is amended by striking out so much of the subdivision as precedes the semicolon in line 3 and inserting in lieu thereof the words: "That the total value of common and preferred stocks shall not exceed twenty-five per centum (25%) of the total value of all invested funds of the Retirement System".

Sec. 11. G.S. 135-18.1(a), as the same appears in the 1971 Cumulative Supplement to the General Statutes, is amended by striking out all of the second sentence preceding the colon in line 16 of the subdivision and inserting in lieu thereof the words: "Any person who becomes a member of this Retirement System on or after July 1, 1951, shall be entitled prior to his retirement to

transfer to this Retirement System his credits for membership and prior service in the local system”.

Sec. 12. G.S. 135-28(c), as the same appears in the 1971 Cumulative Supplement to the General Statutes, is amended by rewriting the first sentence of the subdivision to read as follows:

“Any member who became or becomes employed by an employer of the North Carolina Local Governmental Employees’ Retirement System as provided in (a) above shall be entitled to waive the provisions of (b) above and to transfer to the local system his credits for membership and prior service in this System provided such member shall request this System to transfer his accumulated contributions, interest and service credits to the local system.”

Sec. 13. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 19th day of April, 1973.

H. B. 497

CHAPTER 242

AN ACT REVISING BENEFITS OF THE TEACHERS’ AND STATE EMPLOYEES’ RETIREMENT SYSTEM WITHOUT REQUIRING ANY INCREASE IN THE EMPLOYER CONTRIBUTION RATE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 135-4, as the same appears in the 1971 Cumulative Supplement to the General Statutes, is hereby amended by the addition of a new subsection (i) reading as follows:

“(i) Any person who became a member after June 30, 1947, and before July 1, 1955, and did not subsequently withdraw his contributions may, prior to his retirement, increase his creditable service to the extent of the period of time from the date he became a ‘teacher or employee’ as the terms are defined in this Chapter to the date he became a member, but not exceeding three months immediately preceding membership, provided that he makes an additional contribution in one lump sum equal to five per centum (5%) of the compensation he received for the aforesaid period of time plus regular interest thereon from the date he became a member to the date of payment.”

Sec. 2. (a) G.S. 135-5 (a) (1), as the same appears in the 1971 Cumulative Supplement to the General Statutes, is hereby amended by striking out all of the subdivision following the colon in line 4 and inserting in lieu thereof the words: “Provided, that the said member at the time so specified for his retirement shall have attained the age of 60 years or shall have completed 30 years of service, and notwithstanding that, during such period of notification, he may have separated from service.”

(b) The first four lines of G.S. 135-5 (b3), as the same appears in the 1971 Cumulative Supplement to the General Statutes, are hereby amended by rewriting the same to read as follows:

“(b3) Service Retirement Allowances of Members Retiring on or after July 1, 1969, but prior to July 1, 1973.—Upon retirement from service, in accordance with subsection (a) above, on or after July 1, 1969, but prior to July 1, 1973, a member shall receive a service retirement allowance computed as follows:”.

(c) G.S. 135-5, as the same appears in the 1971 Cumulative Supplement to

the General Statutes, is hereby further amended by the addition of a new subsection immediately after (b3) reading as follows:

“(b4) Service Retirement Allowances of Members Retiring on or after July 1, 1973.—Upon retirement from service, in accordance with subsection (a) above, on or after July 1, 1973, a member shall receive a service retirement allowance computed as follows:

- (1) If the member's service retirement date occurs on or after his 65th birthday, regardless of his years of creditable service, or after the completion of 30 years of creditable service, such allowance shall be equal to one and one-quarter percent (1-1/4%) of the portion of his average final compensation not in excess of five thousand six hundred dollars (\$5,600) plus one and one-half percent (1-1/2%) of the portion of such compensation in excess of five thousand six hundred dollars (\$5,600), multiplied by the number of years of his creditable service.
- (2) If the member's service retirement date occurs before his 65th birthday and prior to his completion of 30 or more years of creditable service, his service retirement allowance shall be computed as in (1) above, but shall be reduced by one-quarter of one percent (1/4 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following his 65th birthday.
- (3) Notwithstanding the foregoing provisions, any member whose creditable service commenced prior to July 1, 1963, shall receive not less than the benefit provided by G.S. 135-5 (b).”

Sec. 3. G.S. 135-5 (m) (1), as the same appears in the 1971 Cumulative Supplement to the General Statutes, is hereby amended by rewriting said subdivision to read as follows:

“(1) The member had attained age 50 with at least 20 years of creditable service, or had attained age 55 regardless of length of service, or had credit for at least 30 years of service regardless of age.”

Sec. 4. G.S. 135-5, as the same appears in the 1971 Cumulative Supplement to the General Statutes, is hereby further amended by the addition of a new subsection (q) reading as follows:

“(q) Increases in Benefits to those Persons who were Retired Prior to January 1, 1970.—From and after July 1, 1973, the monthly benefits to or on account of persons who commenced receiving benefits from the System prior to January 1, 1970, shall be increased by a percentage thereof. Such percentage shall be determined in accordance with the following schedule:

Year(s) in which Benefits Commenced	Percentage
1969	1
1968	4
1967	6
1965 through 1966	9
1964	12
1963	14
1959 through 1962	17
1942 through 1958	22

These increases shall be calculated after monthly retirement allowances as of

July 1, 1973, have been increased to the extent provided for in the preceding subsection (o)."

Sec. 5. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 19th day of April, 1973.

H. B. 498

CHAPTER 243

AN ACT RELATING TO ADMINISTERING THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 128-24(5)b, as the same appears in the 1971 Cumulative Supplement to the General Statutes, is hereby amended by the deletion of the words "on or after July 1, 1965, and" in lines 2 and 3 of the first sentence thereof.

Sec. 2. G.S. 128-26(d) is hereby amended by rewriting the subdivision to read as follows:

"(d) Any member may, up to his date of retirement and within one year thereafter, request the Board of Trustees to modify or correct his prior service credit."

Sec. 3. G.S. 128-27(a)(2), as the same appears in the 1971 Cumulative Supplement to the General Statutes, is hereby amended by striking out all of the subdivision preceding the colon in line 2 and inserting in lieu thereof the words: "A member in service who attains age 65 shall make timely application for retirement, in accordance with (1) above, to be effective no later than the first of July coincident with or next following his 65th birthday."

Sec. 4. G.S. 128-27(f), as the same appears in the 1971 Cumulative Supplement to the General Statutes, is hereby amended by striking out all of the second sentence which precedes the semicolon in line 9 of the subdivision and inserting in lieu thereof the words: "Upon payment of such sum his membership in the System shall cease and, if he thereafter again becomes a member, no credit shall be allowed for any service previously rendered except as provided in G.S. 128-26."

Sec. 5. G.S. 128-27(k), as the same appears in the 1971 Cumulative Supplement to the General Statutes, is amended by rewriting the third paragraph to read as follows:

"As of December 31, 1971, an increase in retirement allowances shall be calculated and made effective July 1, 1972, in the manner described in the preceding paragraph. As of December 31st of each year after 1971, the Ratio (R) of the Consumer Price Index to such index one year earlier shall be determined, and each beneficiary on the retirement rolls as of July 1st of the year of determination shall be entitled to have his allowance increased effective on July 1st of the year following the year of determination by the same percentage of increase indicated by the Ratio (R) calculated to the nearest tenth of one per centum, but not more than four per centum (4%); provided that any such increase in allowances shall be contingent upon the total fund providing sufficient investment gains to cover the additional actuarial liabilities on account of such increase."

Sec. 6. G.S. 128-27(l), as the same appears in the 1971 Cumulative

Supplement to the General Statutes, is hereby amended by striking out all of the first sentence of the second paragraph thereof, and substituting the following:

“Upon receipt of proof, satisfactory to the Board of Trustees, of the death, in service, of a member who had completed at least one full calendar year of membership in the System, there shall be paid to such person as he shall have nominated by written designation duly acknowledged and filed with the Board of Trustees, if such person is living at the time of the member's death, otherwise to the member's legal representatives, a death benefit. Such death benefit shall be equal to the greater of:

- (1) The compensation on which contributions were made by the member during the calendar year preceding the year in which his death occurs, or
- (2) The compensation on which contributions were made by the member during the twelve-month period ending on the last day of the month preceding the month in which his death occurs;

subject to a maximum of fifteen thousand dollars (\$15,000).”

Sec. 7. G.S. 128-27(1), as the same appears in the 1971 Cumulative Supplement to the General Statutes, is further amended by rewriting the fourth paragraph thereof to read as follows:

“Notwithstanding the above provisions, the Board of Trustees may and is specifically authorized to provide the death benefit according to the terms and conditions otherwise appearing in this subsection in the form of group life insurance, either (1) by purchasing a contract or contracts of group life insurance with any life insurance company or companies licensed and authorized to transact business in this State for the purpose of insuring the lives of members in service, or (2) by establishing a separate reserve fund under the Retirement System for such purpose. To that end the Board of Trustees is authorized, empowered and directed to investigate the desirability of utilizing group life insurance by either of the foregoing methods for the purpose of providing the death benefit. If a separate reserve fund is established it shall be operated in accordance with rules and regulations adopted by the Board of Trustees and all investment earnings on the reserve fund shall be credited to such fund.”

Sec. 8. G.S. 128-28(d) is amended by rewriting the entire subsection to read as follows:

“(d) Compensation of Trustees.—The trustees shall be paid during sessions of the board at the prevailing rate established for members of State boards and commissions, and they shall be reimbursed for all necessary expenses that they incur through service on the board.”

Sec. 9. G.S. 128-29(a)(6), as the same appears in the 1971 Cumulative Supplement to the General Statutes, is amended by rewriting the entire subdivision to read as follows:

“(6) Obligations of any company incorporated within the United States if such obligations bear one of the three highest ratings of at least one nationally recognized rating service and do not bear a rating below the three highest by any such rating service which rates the particular security; and”.

Sec. 10. G.S. 128-29.1(8), as the same appears in the 1971 Cumulative Supplement to the General Statutes, is amended by striking out so much of the subdivision as precedes the semicolon in line three and inserting in lieu thereof the words: “That the total value of common and preferred stocks shall not

exceed twenty-five per centum (25%) of the total value of all invested funds of the Retirement System."

Sec. 11. G.S. 128-34(b), as the same appears in the 1971 Cumulative Supplement to the General Statutes, is amended by striking out all of the subsection preceding the colon in line four and inserting in lieu thereof:

"(b) Any member of the Local Governmental Employees' Retirement System shall be entitled prior to his retirement to transfer to this Retirement System his credits for membership and prior service in the Teachers' and State Employees' Retirement System."

Sec. 12. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 19th day of April, 1973.

H. B. 499

CHAPTER 244

AN ACT REVISING BENEFITS OF THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. (a) G.S. 128-27(a)(1), as the same appears in the 1971 Cumulative Supplement to the General Statutes, is hereby amended by striking out all of the subdivision following the colon in line 4 and inserting in lieu thereof the words: "Provided, that the said member at the time so specified for his retirement shall have completed 30 years of service or shall have attained the age of 60 years, or if a uniformed policeman or fireman he shall have attained the age of 55 years, and notwithstanding that, during such period of notification, he may have separated from service."

(b) The first three lines of G.S. 128-27(b3), as the same appear in the 1971 Cumulative Supplement to the General Statutes, are hereby amended by rewriting the same to read as follows:

"(b3) Service Retirement Allowances of Persons Retiring on or after July 1, 1969, but prior to July 1, 1973.—Upon retirement from service on or after July 1, 1969, but prior to July 1, 1973, a member shall receive a service retirement allowance which shall consist of:"

(c) G.S. 128-27, as the same appears in the 1971 Cumulative Supplement to the General Statutes, is hereby further amended by the addition of a new subsection immediately after (b3) reading as follows:

"(b4) Service Retirement Allowances of Members Retiring on or after July 1, 1973.—Upon retirement from service, in accordance with subsection (a) above, on or after July 1, 1973, a member shall receive a service retirement allowance computed as follows:

(1) If the member's service retirement date occurs on or after his 65th birthday, regardless of his years of creditable service, or after the completion of 30 years of creditable service, such allowance shall be equal to one and one-quarter percent (1-1/4%) of the portion of his average final compensation not in excess of fifty-six hundred dollars (\$5,600) plus one and one-half percent (1-1/2%) of the portion of such compensation in excess of fifty-six hundred dollars (\$5,600), multiplied by the number of years of his creditable service.

(2a) If the member's service retirement date occurs on or after his 60th birthday but before his 65th birthday and prior to his completion of 30

or more years of creditable service, his service retirement allowance shall be computed as in (1) above, but shall be reduced by one quarter of one percent ($1/4$ of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following his 65th birthday.

(2b) If the member's service retirement date occurs before his 60th birthday and prior to his completion of 30 or more years of creditable service, his service retirement allowance shall be the actuarial equivalent of the allowance payable at the age of 60 years computed in (2a) above.

(3) Notwithstanding the foregoing provisions, any member whose creditable service commenced prior to July 1, 1965, and uniformed policemen or firemen not covered under the Social Security Act employed thereafter, shall receive not less than the benefits provided by G.S. 128-27(b)."

Sec. 2. G.S. 128-27(m)(1), as the same appears in the 1971 Cumulative Supplement to the General Statutes, is hereby amended by rewriting said subdivision to read as follows:

"(1) The member had attained age 50 with at least 20 years of creditable service, or had attained age 55 regardless of length of service, or had credit for at least 30 years of service regardless of age."

Sec. 3. G.S. 128-27, as the same appears in the 1971 Cumulative Supplement to the General Statutes, is hereby further amended by the addition of a new subsection (o) reading as follows:

"(o) Increases in Benefits to those Persons who were Retired Prior to January 1, 1969.—From and after July 1, 1973, the monthly benefits to or on account of persons who commenced receiving benefits from the System prior to January 1, 1969, shall be increased by a percentage thereof. Such percentage shall be determined in accordance with the following schedule:

Years in which

Benefits Commenced	Percentage
1959 through 1968	10
1946 through 1958	25

These increases shall be calculated after monthly retirement allowances as of July 1, 1973, have been increased to the extent provided for in the preceding subsection (k)."

Sec. 4. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 19th day of April, 1973.

H. B. 506

CHAPTER 245

AN ACT TO AMEND CHAPTER 845 OF THE SESSION LAWS OF 1971 WITH RESPECT TO THE TUITION RATES PAID BY UNDERGRADUATE STUDENTS ENROLLED IN THE SCHOOL OF MEDICINE AND THE SCHOOL OF DENTISTRY AT THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL.

The General Assembly of North Carolina enacts:

Section 1. Session Laws of 1971, Chapter 845, Section 1, is amended by striking therefrom the following sentence:

"The tuition for nonresident undergraduate students who are enrolled in the School of Medicine or at the School of Dentistry at the University of North Carolina at Chapel Hill shall be one thousand eight hundred dollars (\$1,800) a year for the academic year beginning in or about September, 1971, and two thousand three hundred dollars (\$2,300) for the academic year beginning in or about September, 1972, and all academic years thereafter."

Sec. 2. This act shall become effective upon its ratification and shall apply only to terms beginning after May 1, 1973.

In the General Assembly read three times and ratified, this the 19th day of April, 1973.

H. B. 645

CHAPTER 246

AN ACT TO INCORPORATE THE CITY OF LOCUST IN STANLY COUNTY SUBJECT TO AN ELECTION.

The General Assembly of North Carolina enacts:

Section 1. (a) The Board of Elections in Stanly County is hereby required to call and conduct a special election on or before September 1, 1973, for the purpose of submitting to the qualified voters for the area hereinafter described as the proposed corporate limits of the City of Locust, the question whether or not such area shall be incorporated as a municipal corporation known as the City of Locust. On the election day, the polls shall be open from 6:30 a.m. until 7:30 p.m. The Board of Elections for Stanly County in conducting the election required to be held herein shall follow the procedure as outlined in this act and Articles 23 and 24 of Chapter 163 of the General Statutes of North Carolina relating to municipal elections where not in conflict with this act.

(b) Not later than thirty (30) days prior to the date on which the registration books are required to be closed, the Board of Elections of Stanly County shall cause to be posted at the Locust Post Office, and at such other public places as the Board may choose, a notice stating the time, the polling place, and the purpose of the special election; the names of the registrar and judges of election, the dates, hours, and place or places of registration. The Board of Elections may, in its discretion, also cause such notice to be published one or more times in a newspaper having general circulation in the Locust Community.

(c) In the special election, those voters who favor the incorporation of the City of Locust as provided in this act shall vote a ballot upon which shall be printed the words: "FOR Incorporation of the City of Locust", and those voters who are opposed to the incorporation of the City of Locust as provided in this

act shall vote a ballot upon which shall be printed the words: "AGAINST Incorporation of the City of Locust".

Sec. 2. If a majority of the votes cast in such special election shall be cast "AGAINST Incorporation of the City of Locust", then "the Charter of the City of Locust" of this act shall have no force and effect.

Sec. 3. If a majority of the votes cast in such special election shall be cast "FOR Incorporation of the City of Locust" then "the Charter of the City of Locust" of this act shall be in full force and effect from and after the date upon which a certificate of election shall have been issued by the Chairman of the Stanly County Board of Elections in accordance with G.S. 163-301.

Sec. 4. The following provisions of law shall constitute the Charter of the City of Locust in Stanly County.

"THE CHARTER OF THE CITY OF LOCUST"

"ARTICLE I. INCORPORATION AND CORPORATE POWERS"

"Section 1.1 *Incorporation and General Powers.* The inhabitants of the area described in Section 2.1 of this Charter shall be and constitute a body politic and corporate under the name of the 'City of Locust', and shall be vested with all property which may be acquired by the City, and all rights herein delegated to it; shall have perpetual succession; may have a common seal and alter and renew the same at pleasure; may sue and be sued; may contract; may acquire and hold all such property, real and personal, as may be devised, bequeathed, sold or in any manner conveyed to, dedicated to, or otherwise acquired by it, and may from time to time hold or invest, sell, or dispose of the same; and shall have and may exercise in conformity with this Charter all municipal powers, functions, rights, privileges, and immunities of every name and nature.

"Sec. 1.2. *Exercise of Powers.* All powers, functions, rights, privileges, and immunities of the City, its officers, agencies, or employees, shall be carried into execution as provided by this Charter, or, if this Charter makes no provision, as provided by ordinance or resolution of the City Council and as provided by the general laws of North Carolina pertaining to municipal corporations.

"Sec. 1.3. *Enumerated Powers Not Exclusive.* The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive but, in addition to the powers enumerated herein or implied hereby, or those appropriate to the exercise of such powers, the City of Locust shall have and may exercise all powers which are granted to municipal corporations by the general laws of North Carolina and all powers which, under the Constitution of North Carolina, it would be competent for this Charter specifically to enumerate.

"ARTICLE II. CORPORATE BOUNDARIES"

"Sec. 2.1. *Corporate Boundaries.* The corporate boundaries of the City of Locust, until changed in accordance with law are as follows:

Starting at the Stanfield boundary line on Rock Hole Creek, proceed west to southeast corner of Joel Huneycutt's property; follow property line six hundred feet west then northwest to junction of County Road 1142 and Hwy. 27. From Hwy. 27, proceed northeast and follow along the western boundary of Lewis Kluttz property. Proceed to the southwest corner of the Charlie Hartsell property and follow property line to the northeast corner then proceed northeast along the western boundary and to the northwestern corner of Western Hills development. From here proceed east to a point three hundred feet from center line of Hwy. 200, five hundred feet north of Danita Drive. Proceed north three

hundred feet from center line of Hwy. 200 to a point two hundred feet from dead end street known as Edgewood Drive. Proceed west to end of dead end street to southwest corner of Dwain Tucker lot. Turn northwest across Meadow Creek Road to corner of Meadow Creek Church cemetery. Follow boundary of cemetery two hundred fifteen feet from center line of Meadow Creek Road. Following Meadow Creek Road two hundred fifteen feet from center line proceed northeast crossing Hwy. 200 to a point three hundred fifteen feet from center line and two hundred fifteen feet from center line of Bethel Church Road; proceed south along Hwy. 200 three hundred fifteen feet from center line, with the exception of the Glen Almond development and Thurman Snyder property, which shall be four hundred fifteen feet, to a point due east of Danita Drive and Hwy. 200 intersection and west northwest of Gum Pond. Proceed southeast to what is known as Gum Pond at the corner of Glen Smith property. From here follow north and east boundary of Glen Smith property to center line of Hwy. 27. Follow center line of Hwy. 27 east to northeast corner of Roy Huneycutt property. Proceed south six hundred feet to a point, turn west to a point forty feet from southwest corner of Glen Smith cabin, but at no time less than two hundred feet from center line of Hwy. 27; proceed west to a point on crest of hill three hundred fifteen feet south of center line of Hwy. 27; proceed south southwest along western boundary of Larry Barbee property to Elm Street then southwest to corner of Stanfield city limits at northeast corner of the B. E. Holbrook's property. Continue following Stanfield city limits back to starting point.

"ARTICLE III. MAYOR AND CITY COUNCIL

"Sec. 3.1. *Temporary Officers.* Until the initial election provided for by Section 4.1 of this Charter, Buren Mullis, Ritchie Tucker, Glenn Almond, Herbert Deese, Wilson Barbee, Jacqueline Barbee, Shirley Kluttz and Joel Huneycutt are hereby appointed Councilmen of the City of Locust, and they shall possess and may exercise the powers granted to the Mayor and City Council until their successors are elected and qualify pursuant to this Charter.

"Sec. 3.2. *Mayor and Mayor Pro Tempore.* The Mayor shall be elected by the City Council from its own members, and he shall hold office for two (2) years. In the case of a vacancy in the office of Mayor, the City Council shall by appointment fill the vacancy for the unexpired term. The Mayor shall be the official head of the City government and shall preside at all meetings of the City Council. When there is an equal division upon any question, or in the appointment of officers, by the Council, the Mayor shall determine the matter by his vote, and shall vote in no other case. The Mayor shall exercise such powers and perform such duties as are or may be conferred upon him by the general laws of North Carolina, by this Charter, and by the ordinances of the City. The City Council shall choose one of its number to act as Mayor Pro Tempore, and he shall perform the duties of the Mayor in the Mayor's absence or disability. The Mayor Pro Tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the Council.

"Sec. 3.3. *Composition of City Council.* The City Council shall consist of eight (8) members to be elected by and from the qualified voters of the City voting at large in the manner provided by Article IV.

"Sec. 3.4. *Terms; Qualifications; Vacancies.* (a) Except for the initial terms of office, the members of the City Council shall serve for terms of four (4)

years, beginning the day and hour of the organizational meeting following their election, as established by ordinance in accordance with this Charter; provided, they shall serve until their successors are elected and qualify.

(b) No person shall be eligible to be a candidate or be elected as a member of the City Council, or to serve in such capacity, unless he is a resident and a qualified voter of the City.

(c) If any elected Councilman shall refuse to qualify, or if there shall be any vacancy in the office of Councilman after election and qualification, the remaining members of the Council shall by majority vote appoint some qualified person to serve for the unexpired term. Any Councilman so appointed shall have the same authority and powers as if regularly elected.

"Sec. 3.5. *Compensation of Mayor and Councilmen.* The City Council may fix its own compensation and allowances, and the compensation and allowances of the Mayor, in such sums as may be just and reasonable, effective following the next regular municipal election for seats on the City Council. The compensation and allowances of the Mayor shall not be reduced during the then current term of office.

"Sec. 3.6. *Organization of Council; Oaths of Office.* The City Council shall meet and organize for the transaction of business at the first regularly scheduled meeting of the Council following each biennial election. Before entering upon their offices, the Mayor and each Councilman shall take, subscribe, and have entered upon the minutes of the Council the following oath of office:

'I, _____, do solemnly swear (or affirm) that I will support and maintain the Constitution of the United States and the Constitution and laws of North Carolina not inconsistent therewith and that I will faithfully discharge the duties of my office as _____, so help me God'.

"Sec. 3.7. *Meetings of Council.* The City Council shall fix by ordinance suitable times for its regular meetings, which shall be as often as once monthly. Special meetings may be held on the call of the Mayor or a majority of the Councilmen, and those not joining in the call shall be notified in writing. Any business may be transacted at a special meeting that might be transacted at a regular meeting.

"Sec. 3.8. *Quorum; Votes.* (a) A majority of the members elected to the City Council shall constitute a quorum for the conduct of business, but a less number may adjourn from time to time and compel the attendance of absent members in such manner as may be prescribed by ordinance. The number required for a quorum shall not be affected by vacancies.

(b) The affirmative vote of a majority of the members of the City Council shall be necessary to adopt any ordinance, or any resolution or motion having the effect of an ordinance. All other matters to be voted upon shall be decided by a majority vote of the members present and voting.

"Sec. 3.9. *Ordinances and Resolutions.* The adoption, amendment, repeal, pleading, or proving of ordinances shall be in accordance with the applicable provisions of the general laws of North Carolina not inconsistent with this Charter. The ayes and noes shall be taken upon all ordinances and resolutions and entered upon the minutes of the Council. The enacting clause of all ordinances shall be: 'BE IT ORDAINED by the City Council of the City of Locust'. All ordinances and resolutions shall take effect upon adoption unless

otherwise provided therein, or unless some provision of the General Statutes provides otherwise.

"ARTICLE IV. ELECTION PROCEDURE

"Sec. 4.1. *Regular Municipal Elections.* Regular municipal elections shall be held on the Tuesday after the first Monday in November of each odd-numbered year, beginning in 1973. In the regular election in 1973, there shall be elected eight (8) councilmen. The four (4) candidates receiving the highest number of votes shall be elected for terms of four (4) years and the four (4) candidates receiving the next highest number of votes shall be elected for terms of two (2) years. Beginning in the regular election in 1975, and in subsequent elections, all terms shall be for four (4) years.

"Sec. 4.2. *Regulation of Elections.* All municipal elections shall be conducted by the Stanly County Board of Elections in accordance with the general laws of North Carolina relating to municipal elections, except as otherwise herein provided. The municipal elections shall be non-partisan and decided by a simple plurality. No primary election shall be held.

"ARTICLE V. CITY ATTORNEY

"Sec. 5.1. *Appointment; Qualifications; Terms; Compensation.* The City Council shall appoint a City Attorney who shall be an attorney at law licensed to engage in the practice of law in North Carolina and who need not be a resident of the City during his tenure. The City Attorney shall serve at the pleasure of the City Council and shall receive such compensation as the Council shall determine.

"Sec. 5.2. *Duties of the City Attorney.* It shall be the duty of the City Attorney to prosecute and defend suits for and against the City; to advise the Mayor, City Council, and other City officials with respect to the affairs of the City; to draw all legal documents relating to the affairs of the City; to draw proposed ordinances when requested to do so; to inspect and pass upon all agreements, contracts, franchises and other instruments with which the City may be concerned; to attend meetings of the City Council when requested; and to perform such other duties as may be required of him by virtue of his position as City Attorney.

"ARTICLE VI. ADMINISTRATIVE OFFICERS AND EMPLOYEES

"Sec. 6.1. *City Clerk.* The City Council shall appoint a City Clerk to keep a journal of the proceedings of the Council and to maintain in a safe place all records and documents pertaining to the affairs of the City, and to perform such other duties as may be required by law or as the Council may direct.

"Sec. 6.2. *City Tax Collector.* The City Council shall appoint a Tax Collector to collect all taxes, licenses, fees and other monies belonging to the City subject to the provisions of this Charter and the ordinances of the City, and he shall diligently comply with and enforce all the general laws of North Carolina relating to the collection, sale, and foreclosure of taxes by municipalities.

"Sec. 6.3. *City Finance Officer.* The City Council may appoint a City Finance Officer to perform the duties of the Finance Officer as required by the Local Government Budget and Fiscal Control Act.

"Sec. 6.4. *Consolidation of Functions.* The City Council may, in its discretion, consolidate the functions of any two or more of the positions of City Clerk, City Tax Collector, and City Finance Officer, or may assign the functions of any one or more of these positions to the holder or holders of any other of

these positions. The City Council may also, in its discretion, designate a single employee to perform all or any part of the functions of any of the named positions, in lieu of appointing several persons to perform the same.

"Sec. 6.5. *Other Employees.* The City Council may create and fill by appointment such other positions as it deems advisable to insure the efficient administration of the City's affairs, and may, in its discretion, appoint a person to supervise all City departments and may delegate to such person the power of appointment and removal of department heads and employees, other than the City Attorney.

"ARTICLE VII. FINANCE

"Sec. 7.1. *Custody of City Money.* All monies received by the City for and in connection with the business of the City government shall be paid promptly into the City depository. Such institution shall be designated by the City Council in accordance with such regulations and subject to such requirements as to security for deposits and interest thereon as may be established by the General Statutes of North Carolina. All interest on monies belonging to the City shall accrue to the benefit of the City. All monies belonging to the City shall be disbursed only in accordance with the provisions of the Local Government Budget and Fiscal Control Act.

"Sec. 7.2. *Issuance of Bonds.* The City may issue bonds for the purposes and in the manner prescribed by the General Statutes of North Carolina relating to the issuance of bonds by municipalities.

"Sec. 7.3. *Purchases and Contracts.* Purchases of apparatus, supplies, materials, and equipment, and contracts for construction or repair work, shall be made in accordance with the General Statutes of North Carolina relating thereto.

"Sec. 7.4. *Independent Audit.* As soon as practicable after the close of each fiscal year, an independent audit shall be made of all books and accounts of the City government by a certified public accountant or an accountant certified by the Local Government Commission who shall have no personal interest directly or indirectly in the affairs of the City or of any of its officers. The City Council shall select the public accountant, and the results of such audit shall be made available for inspection by any interested citizen of the City, and may be published if so ordered by the City Council.

"Sec. 7.5. *Taxation.* The territory within the corporate limits, and its citizens and property, shall be subject to municipal taxes levied by the City for the fiscal year 1973-74 and subsequent years. The City may obtain from Stanly County, and the Stanly County Tax Supervisor shall provide upon request, a record of property within the corporate limits which was listed for taxation as of January 1, 1973.

"ARTICLE VIII. CLAIMS AGAINST THE CITY

"Sec. 8.1. *Tort Claims.* All claims or demands against the City arising in tort shall be presented to the City Council in writing, signed by the claimant or his attorney or agent, within ninety (90) days after such claim or demand is due or the cause of action accrues. No suit or action shall be brought on such a claim or demand within thirty (30) days or after the expiration of twelve (12) months from the time such claim or demand is presented. Unless the said claim or demand is so presented within ninety (90) days, and unless suit is brought within twelve (12) months thereafter, any action thereon shall be barred."

Sec. 6. If any provision of this act or the application thereof to any

person or circumstances is held invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions or application of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 7. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 8. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 19th day of April, 1973.

H. B. 676

CHAPTER 247

AN ACT CONCERNING FAITHFUL PERFORMANCE BONDS REQUIRED OF COUNTY ELECTRICAL INSPECTORS.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of G.S. 153-9(47a), electrical inspectors in Guilford County and Mecklenburg County may be bonded under an employee blanket bond so long as the County provides such a bond for all county employees and such electrical inspectors shall not be required to give separate bonds.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of April, 1973.

S. B. 128

CHAPTER 248

AN ACT TO AMEND G.S. 7A-4.20 TO ALLOW JUDGES OF THE GENERAL COURT OF JUSTICE WHO HAD BEEN ELECTED PRIOR TO JANUARY 1, 1973, AND WHO ATTAINED THE AGE OF 70 AFTER JANUARY 1, 1973, TO SERVE OUT THEIR TERMS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-4.20(a) is hereby amended by deleting from the sixth and seventh lines thereof the words "who has attained the age prescribed in this section for mandatory retirement".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of April, 1973.

S. B. 375

CHAPTER 249

AN ACT TO AMEND G.S. 58-210, RELATING TO LIFE INSURANCE, SO AS TO PROVIDE THAT THE MAXIMUM AMOUNT OF LIFE INSURANCE ON A DEBTOR MAY BE INCREASED FROM \$5,000 TO \$10,000.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-210(2)d which reads "The amount of insurance on the life of any debtor shall at no time exceed the amount owed by him which is

repayable in installments to the creditor, or \$5,000, whichever is less.”, is amended to read:

“The amount of life insurance on the life of any debtor shall at no time exceed the amount owed by him which is repayable in installments to the creditor, or ten thousand dollars (\$10,000), whichever is less.”

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of April, 1973.

S. B. 409

CHAPTER 250

AN ACT TO AMEND G.S. 1-38 RELATING TO THE POSSESSION OF
REAL PROPERTY WITH RESPECT TO COLOR OF TITLE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1-38 is hereby amended by redesignating the present statute as paragraph (a) and by adding a new paragraph at the end thereof to read as follows:

“(b) If,

(1) The marking of boundaries on the property by distinctive markings on trees or by the implacement of visible metal or concrete boundary markers in the boundary lines surrounding the property, such markings to be visible to a height of 18 inches above the ground, and

(2) The recording of a map prepared from an actual survey by a surveyor registered under the laws of North Carolina, in the book of maps in the office of the register of deeds in the county where the real property is located, with a certificate attached to said map by which the surveyor certifies that the boundaries as shown by the map are those described in the deed or other title instrument or proceeding from which the survey was made, the surveyor's certificate reciting the book and page or file number of the deed, other title instrument or proceeding from which the survey was made, then the listing and paying of taxes on the real property marked and for which a survey and map have been certified and recorded as provided in subdivisions (1) and (2) above shall constitute prima facie evidence of possession of real property under known and visible lines and boundaries; provided, that certificates in accordance with the foregoing may be affixed to maps presently recorded and thus comply with this statute.”

(c) Maps recorded prior to the effective date hereof shall qualify as if they had been certified as herein provided if said maps can be proven to conform to the boundary lines on the ground and to conform to instruments of record conveying the land which is the subject matter of the map, to the person whose name is indicated on said recorded map as the owner thereof. Maps recorded after the effective date of this Act shall comply with the provisions for a certificate as hereinbefore set forth.

Sec. 2. This act shall become effective October 1, 1973.

In the General Assembly read three times and ratified, this the 20th day of April, 1973.

H. B. 33

CHAPTER 251

AN ACT TO PROVIDE FOR THE AUTOMATIC RESTORATION OF CITIZENSHIP.

The General Assembly of North Carolina enacts:

Section 1. Chapter 13 of the General Statutes as the same appears in the 1971 Replacement Volume 1B is hereby amended and rewritten to read as follows:

“§ 13-1. *Restoration of citizenship.*—Any person convicted of a crime, whereby the rights of citizenship are forfeited, shall have such rights restored upon the occurrence of any one of the following conditions:

(1) The unconditional discharge of an inmate by the State Department of Correction or the North Carolina Board of Juvenile Correction, of a probationer by the State Probation Commission, or of a parolee by the Board of Paroles; or of a defendant under a suspended sentence by the Court.

(2) The unconditional pardon of the offender.

(3) The satisfaction by the offender of all conditions of a conditional pardon.

“§ 13-2. *Issuance and filing of certificate or order of restoration.*—The agency, department, or court having jurisdiction over the inmate, probationer, parolee or defendant at the time his rights of citizenship are restored under the provisions of G.S. 13-1(1) shall immediately issue a certificate or order in duplicate evidencing the offender's unconditional discharge and specifying the restoration of his rights of citizenship.

The original of such certificate or order shall be promptly transmitted to the Clerk of the General Court of Justice in the county where the official record of the case from which the conviction arose is filed. The Clerk shall then file the certificate or order without charge with the official record of the case.

“§ 13-3. *Issuance, service and filing of warrant of unconditional pardon.*—In the event the rights of citizenship are restored by an unconditional pardon as specified in G.S. 13-1(2), the Governor, under the provisions of G.S. 147-23, shall issue his warrant therefor specifying the restoration of rights of citizenship to the offender; and the officer to whom the Governor issues his warrant to effect the release of the offender shall deliver a copy of the warrant to the offender under the provisions of G.S. 147-25. The original warrant bearing the officer's return as specified in G.S. 147-25 shall be filed by the Clerk of the General Court of Justice without charge in the county where the official record of the case from which the conviction arose is filed.

“§ 13-4. *Endorsement of warrant, service and filing of conditional pardon.*—When the offender has satisfied all of the conditions of a conditional pardon, and his rights of citizenship have been restored under the provisions of G.S. 13-1(3), the Governor shall issue an endorsement to the original warrant which specified the conditions of the pardon. Such endorsement shall acknowledge that the offender has satisfied all of the conditions of the pardon.

The Governor shall then deliver the endorsement to the officer specified in G.S. 147-25 for service and delivery to the Clerk. Service and delivery to the Clerk and filing by the Clerk shall be done in accordance with the provisions of G.S. 13-3 so that the endorsement reflecting satisfaction of all conditions of the

pardon will be served and recorded as if it were a warrant of unconditional pardon.”

Sec. 2. All laws and clauses of laws in conflict with the provisions of this act shall be null and void.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of April, 1973.

H. B. 994

CHAPTER 252

AN ACT TO AMEND CHAPTER 570 OF THE SESSION LAWS OF 1971 SO AS TO ALLOW THE TOWN OF WHITE LAKE TO DIG DITCHES BELOW A CERTAIN LEVEL IN BLADEN COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 570, Session Laws of 1971, is hereby amended by deleting the period and adding a comma at the end of Section 1 and by adding the following: except for the Town of White Lake, after first having obtained a written permit from the State Highway Commission or its duly authorized officers, as provided in G.S. 136-93, in the installation, repair and maintenance of its water and sewer mains and lines.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of April, 1973.

S. B. 231

CHAPTER 253

AN ACT TO PERMIT TREATMENT OF MENTALLY ILL CRIMINALS AT ANY MENTAL HEALTH FACILITY APPROVED BY THE STATE DEPARTMENT OF MENTAL HEALTH.

The General Assembly of North Carolina enacts:

Section 1. G.S. 122-83, as the same appears in the 1971 Cumulative Supplement to Volume 3B of the General Statutes, is amended as follows:

(1) Wherever the word “hospital” appears in this section and in the catchline thereof, it is stricken out and the word “facility” is substituted therefor.

(2) Wherever the word “institutions” appears, it is stricken out and the word “facilities” is substituted therefor.

(3) The words “to Dorothea Dix Hospital, or to Cherry Hospital” are stricken out and the words “any State Mental Health Facility in North Carolina” is substituted therefor.

Sec. 2. G.S. 122-84, as the same appears in the 1964 Replacement Volume 3B of the General Statutes, is amended as follows:

(1) Where the words “the hospital” appear in lines 15 and 19 of this section, they are stricken out and the words “a facility” are substituted therefor.

(2) Wherever else the word “hospital” appears in this section and in the catchline thereof, it is stricken out and the word “facility” is substituted therefor.

Sec. 3. G.S. 122-85, as the same appears in the 1971 Cumulative

Supplement to the 1964 Replacement Volume 3B of the General Statutes, is amended as follows:

(1) Where the words “the hospital” appear in line three of this section, they are hereby stricken out and the words “a facility” are substituted therefor.

(2) Wherever else the word “hospital” appears in this section and in the catchline thereof, it is stricken out and the word “facility” is substituted therefor.

(3) Where the word “hospitalization” appears in lines three and four and in line eight of this section, it is stricken out and the word “commitment” is substituted therefor.

Sec. 4. G.S. 122-85.1, as the same appears in the 1964 Replacement Volume 3B of the General Statutes, is amended as follows:

(1) The word “hospitalized” where it appears in line two is stricken out and the word “committed” is substituted therefor.

(2) The word “hospital” where it appears in line three is stricken out and the word “facility” is substituted therefor.

Sec. 5. G.S. 122-86, as the same appears in the 1964 Replacement Volume 3B of the General Statutes, is amended as follows:

(1) The words “the hospital” where they appear in lines two and five the words “the hospitals” where they appear in line 11 are stricken out and, in each instance, the words “a facility” are substituted therefor.

(2) The words “several State hospitals” where they appear in line 14 are stricken out and the word “facilities” is substituted therefor.

(3) The word “hospital” where it appears in the catchline and in line eight, is stricken out and the word “facility” is substituted therefor in each instance.

Sec. 6. G.S. 122-87, as the same appears in the 1964 Replacement Volume 3B of the General Statutes, is amended as follows:

(1) The word “hospital”, where it appears in lines one, three, seven and thirteen, is stricken out and the word “facility” is substituted therefor.

(2) The word “hospitalized”, where it appears in lines eight and 16, is stricken out and the word “committed” is substituted therefor.

Sec. 7. G.S. 122-87.1, as the same appears in the 1964 Replacement Volume 3B of the General Statutes, is amended as follows:

(1) The word “hospital” where it appears in line three, is stricken out and the word “facility” is substituted therefor.

(2) The word “hospitalized” where it appears in line four is stricken out and the word “committed” is substituted therefor.

Sec. 8. G.S. 122-88, as the same appears in the 1964 Replacement Volume 3B of the General Statutes, is amended as follows:

(1) The word “hospital” where it appears in the catchline is stricken out and the word “facility” is substituted therefor.

(2) The word “hospitalize” where it appears in line eight is stricken out and the word “commit” is substituted therefor.

(3) The words “the State hospital”, where they appear in line eight, are stricken out and the words “a State facility” is substituted therefor.

Sec. 9. G.S. 122-89, as the same appears in the 1964 Replacement Volume 3B of the General Statutes, is amended as follows:

(1) The word “Hospital”, where it appears in the catchline, is stricken out and the word “Facility” is substituted therefor.

(2) The word “hospitals”, where it appears in line two and the word

“institutions”, where it appears in line four, are stricken out and, in each instance, the word “facilities” is substituted therefor.

Sec. 10. G.S. 122-91, as the same appears in the 1971 Cumulative Supplement to Volume 3B of the General Statutes, is amended as follows:

(1) The word “hospital” where it appears in lines four, nine, 18 and 21 is stricken out and the word “facility” is substituted therefor.

(2) The word “hospitalized”, where it appears in lines 15 and 16 is stricken out and the word “committed” is substituted therefor.

Sec. 11. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of April, 1973.

S. B. 336

CHAPTER 254

AN ACT TO AMEND THE CHARTER OF THE TOWN OF ELKIN TO REGULATE THE PRESENTATION OF CLAIMS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 44, Private Laws of 1911, is amended by adding a new paragraph at the end of Section 22 to read:

“All claims or demands against the Town of Elkin arising in tort shall be presented to the governing body of the Town or the Mayor, in writing, signed by the claimant, his attorney or agent, within ninety (90) days after the claim or demand is due or the cause of action arose. No suit or action shall be brought within ten (10) days or after the expiration of twelve (12) months from the time the claim is presented. If the claim is not presented within ninety (90) days after the claim or demand is due or the cause of action arose, and if suit is not instituted within twelve (12) months from the time the action arose, the claim and action thereon shall be barred.”

Sec. 2. This act shall apply to claims and actions arising after the ratification of this act.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of April, 1973.

S. B. 408

CHAPTER 255

AN ACT TO PROVIDE FOR THE PROTECTION OF THE TITLE TO LAND IN THE STATE OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. A new Chapter is hereby inserted in the General Statutes to read as follows:

“Chapter 47B.

“Real Property Marketable Title Act.

“§ 47B-1. *Declaration of policy and statement of purpose.*—It is hereby declared as a matter of public policy by the General Assembly of the State of North Carolina that:

(1) Land is a basic resource of the people of the State of North Carolina and should be made freely alienable and marketable so far as is practicable.

(2) Nonpossessory interests in real property, obsolete restrictions and technical defects in titles which have been placed on the real property records at

remote times in the past often constitute unreasonable restraints on the alienation and marketability of real property.

(3) Such interests and defects are prolific producers of litigation to clear and quiet titles which cause delays in real property transactions and fetter the marketability of real property.

(4) Real property transfers should be possible with economy and expediency. The status and security of recorded real property titles should be determinable from an examination of recent records only.

It is the purpose of the General Assembly of the State of North Carolina to provide that if a person claims title to real property under a chain of record title for 30 years, and no other person has filed a notice of any claim of interest in the real property during the 30-year period, then all conflicting claims based upon any title transaction prior to the 30-year period shall be extinguished.

“§ 47B-2. Marketable record title to interest in real property; 30-year unbroken chain of title of record; effect of marketable title.—(a) Any person having the legal capacity to own real property in this State, who, alone or together with his predecessors in title, shall have been vested with any interest in real property of record for 30 years or more, shall have a marketable record title to such interest in real property.

(b) A person has an interest in real property of record for 30 years or more when the public records disclose a title transaction affecting the title to the real property which has been of record for not less than 30 years purporting to create such interest either in:

- (1) the person claiming such interest; or
- (2) some other person from whom, by one or more title transactions, such interest has passed to the person claiming such interest with nothing appearing of record, in either case, purporting to divest such claimant of the interest claimed.

(c) Subject to the matters stated in G.S. 47B-3, such marketable record title shall be free and clear of all rights, estates, interests, claims or charges whatsoever, the existence of which depends upon any act, title transaction, event or omission that occurred prior to such 30-year period. All such rights, estates, interests, claims or charges, however denominated, whether such rights, estates, interests, claims or charges are or appear to be held or asserted by a person sui juris or under a disability, whether such person is natural or corporate, or is private or governmental, are hereby declared to be null and void.

(d) In every action for the recovery of real property, to quiet title, or to recover damages for trespass, the establishment of a marketable record title in any person pursuant to this statute shall be prima facie evidence that such person owns title to the real property described in his record chain of title.

“§ 47B-3. Exceptions.—Such marketable record title shall not affect or extinguish the following rights:

(1) Rights, estates, interests, claims or charges disclosed by and defects inherent in the muniments of title of which such 30-year chain of record title is formed, provided, however, that a general reference in any of such muniments to rights, estates, interests, claims or charges created prior to such 30-year period shall not be sufficient to preserve them unless specific identification by reference to book and page of record be made therein to a recorded title

transaction which imposed, transferred or continued such rights, estates, interests, claims or charges.

(2) Rights, estates, interests, claims or charges preserved by the filing of a proper notice in accordance with the provisions of G.S. 47B-4.

(3) Rights, estates, interests, claims or charges of any person who is in present, actual and open possession of the real property so long as such person is in such possession.

(4) Rights of any person who likewise has a marketable record title as defined in G.S. 47B-2 and who is listed as the owner of such real property on the tax books of the county in which the real property is located at the time that marketability is to be established.

(5) Rights of any owners of mineral rights.

(6) Rights-of-way of any railroad company (irrespective of nature of its title or interest therein whether fee, easement, or other quality) and all real estate other than right-of-way property of a railroad company in actual use for railroad purposes or being held or retained for prospective future use for railroad operational purposes. The use by any railroad company or the holding for future use of any part of a particular tract or parcel of right-of-way or non-right-of-way property shall preserve the interest of the railway company in the whole of such particular tract or parcel. Operational use is defined as railroad use requiring proximity and access to railroad tracks. Nothing in this section shall be construed as repealing G.S. 1-44.1.

(7) Rights, interests, or servitudes in the nature of easements, rights-of-way or terminal facilities of any railroad (company or corporation) obtained by the terms of its charter or through any other congressional or legislative grant not otherwise extinguished.

(8) Rights of any person who has an easement or interest in the nature of an easement, whether recorded or unrecorded and whether possessory or non-possessory, when such easement or interest in the nature of an easement is for the purpose of:

a. Flowage, flooding or impounding of water, provided that the watercourse or body of water, which such easement or interest in the nature of an easement serves, continues to exist; or

b. Placing and maintaining lines, pipes, cables, conduits or other appurtenances which are either above ground, underground or on the surface and which are useful in the operation of any water, gas, natural gas, petroleum products, or electric generation, transmission or distribution system, or any sewage collection or disposal system, or any telephone, telegraph or other communications system, or any surface water drainage or disposal system whether or not the existence of the same is clearly observable by physical evidence of its use.

(9) Rights, titles or interests of the United States to the extent that the extinguishment of such rights, titles or interest is prohibited by the laws of the United States.

(10) Rights, estates, interests, claims or charges created subsequent to the beginning of such 30-year period.

(11) Deeds of trust, mortgages and security instruments or security agreements duly recorded and not otherwise unenforceable.

(12) Rights, estates, interests, claims or charges with respect to any real

property registered under the Torrens Law as provided by Chapter 43 of the General Statutes of North Carolina.

(13) Covenants applicable to a general or uniform scheme of development which restrict the property to residential use only, provided said covenants are otherwise enforceable. The excepted covenant may restrict the property to multi-family or single-family residential use or simply to residential use. Restrictive covenants other than those mentioned herein which limit the property to residential use only are not excepted from the provisions of Chapter 47-B.

“§ 47B-4. *Preservation by notice; contents; recording; indexing.*—(a) Any person claiming a right, estate, interest or charge which would be extinguished by this Chapter may preserve the same by registering within such 30-year period a notice in writing, duly acknowledged, in the office of the register of deeds for the county in which the real property is situated, setting forth the nature of such claim, which notice shall have the effect of preserving such claim for a period of not longer than 30 years after registering the same unless again registered as required herein. No disability or lack of knowledge of any kind on the part of any person shall delay the commencement of or suspend the running of said 30-year period. Such notice may be registered by the claimant or by any other person acting on behalf of any claimant who is

(1) under a disability;

(2) unable to assert a claim on his behalf; or

(3) one of a class, but whose identity cannot be established or is uncertain at the time of filing such notice of claim for record.

(b) To be effective and to be entitled to registration, such notice shall contain an accurate and full description of all real property affected by such notice, which description shall be set forth in particular terms and not be by general reference; but if such claim is founded upon a recorded instrument, then the description in such notice may be the same as that contained in the recorded instrument. Such notice shall also contain the name of any record owner of the real property at the time the notice is registered and a statement of the claim showing the nature, description and extent of such claim. The register of deeds of each county shall accept all such notices presented to him which are duly acknowledged and certified for recordation and shall enter and record full copies thereof in the same way that deeds and other instruments are recorded, and each register of deeds shall be entitled to charge the same fees for the recording thereof as are charged for the recording of deeds. In indexing such notices in his office each register of deeds shall enter such notices under the grantee indexes of deeds under the names of persons on whose behalf such notices are executed and registered and under the grantor indexes of deeds under the names of the record owners of the possessory estates in the real property to be affected against whom the claim is to be preserved at the time of the registration.

“§ 47B-5. *Extension of time for registering notice of claims which Chapter would otherwise bar.*—If the 30-year period specified in this Chapter shall have expired prior to October 1, 1973, no right, estate, interest, claim or charge shall be barred by G.S. 47B-2 until October 1, 1976, and any right, estate, interest, claim or charge that would otherwise be barred by G.S. 47B-2 may be preserved and kept effective by the registration of a notice of claim as set forth in G.S. 47B-4 of this Chapter prior to October 1, 1976.

“§ 47B-6. *Registering false claim.*—No person shall use the privilege of

registering notices hereunder for the purpose of asserting false or fictitious claims to real property; and in any action relating thereto if the court shall find that any person has intentionally registered a false or fictitious claim, the court may award to the prevailing party all costs incurred by him in such action, including a reasonable attorney's fee, and in addition thereto may award to the prevailing party treble the damages that he may have sustained as a result of the registration of such notice of claim.

"§ 47B-7. *Limitations of actions and recording acts.*—Nothing contained in this Chapter shall be construed to extend the period for the bringing of an action or for the doing of any other required act under any statutes of limitations, nor, except as herein specifically provided, to affect the operation of any statutes governing the effect of the registering or the failure to register any instrument affecting real property.

"§ 47B-8. *Definitions.*—As used in this Chapter:

(1) The term 'person' denotes singular or plural, natural or corporate, private or governmental, including the State and any political subdivision or agency thereof, and a partnership, unincorporated association, or other entity capable of owning an interest in real property.

(2) The term 'title transaction' means any transaction affecting title to any interest in real property, including but not limited to title by will or descent, title by tax deed, or by trustee's, referee's, commissioner's, guardian's, executor's, administrator's, or sheriff's deed, contract, lease or reservation, or judgment or order of any court, as well as warranty deed, quitclaim deed, or mortgage.

"§ 47B-9. *Chapter to be liberally construed.*—This Chapter shall be liberally construed to effect the legislative purpose of simplifying and facilitating real property title transactions by allowing persons to rely on a record chain of title of 30 years as described in G.S. 47B-2, subject only to such limitations as appear in G.S. 47B-3."

Sec. 2. This act shall become effective October 1, 1973.

In the General Assembly read three times and ratified, this the 23rd day of April, 1973.

S. B. 663

CHAPTER 256

AN ACT RELATING TO THE REQUIREMENT OF FEES AND THE STATE BOARD OF COSMETIC ART EXAMINERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 88-19 is hereby amended by deleting from the last line the words and figure "five dollars (\$5.00)" and inserting in lieu thereof the words and figure "eight dollars (\$8.00)".

Sec. 2. G.S. 88-21 is hereby rewritten to read as follows:

"§ 88-21. *Fees required.*—The fee to be paid by an applicant for a certificate of registration to practice cosmetic art as an apprentice shall be five dollars (\$5.00). The fee to be paid by an applicant for examination to determine his or her fitness to receive a certificate of registration as a registered cosmetologist shall be ten dollars (\$10.00). The regular or annual license fee of a registered cosmetologist shall be eight dollars (\$8.00), and the renewal of the license of a registered cosmetologist shall be eight dollars (\$8.00) if renewed before the same becomes delinquent, and if renewed after the same becomes delinquent

there shall be charged a penalty of three dollars (\$3.00) in addition to the regular license fee of eight dollars (\$8.00); the annual license fee of a registered apprentice shall be four dollars (\$4.00), and all licenses, both for apprentices and for registered cosmetologists, shall be renewed as of the first day of October each and every year. All cosmetic art schools shall pay a fee of fifty dollars (\$50.00) annually. The fees herein set out shall not be increased by the Board of Cosmetic Art Examiners, but said Board may regulate the payment of said fees and prorate the license fees in such manner as it deems expedient. The fee for registration of an expired certificate for a registered cosmetologist shall be five dollars (\$5.00) and registration of an expired certificate of an apprentice shall be three dollars (\$3.00)."

Sec. 3. G.S. 88-25 is hereby amended by deleting from line 3 the words "June 30" and inserting in lieu thereof the words "October 1". G.S. 88-25 is further amended by deleting from line 6 the word "July" and inserting in lieu thereof the word "October" and by also deleting from line 6 the word "August" and inserting in lieu thereof the word "November".

Sec. 4. This act shall become effective on October 1, 1974.

In the General Assembly read three times and ratified, this the 23rd day of April, 1973.

H. B. 649

CHAPTER 257

AN ACT TO PROHIBIT THE TAKING OF GAME FROM CERTAIN PUBLIC HIGHWAYS IN MARTIN COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It shall be unlawful for any person to hunt, take or kill any species of birds, animals or beasts, or attempt to hunt, take or kill any species of birds, animals or beasts by the use of firearms from the roadway or right-of-way of public highways, or to discharge a firearm on or across a public highway in Martin County north of the following line:

BEGINNING at Highway No. 11, south of the Martin County line running northerly to Highway No. 42, thence east along Highway No. 42 to Rural Road No. 1313, thence south along Rural Road No. 1313 to Highway No. 903, thence Northeast along Highway No. 903 to Highway No. 125, thence east along Highway No. 125 to Rural Road No. 1415, thence north along Rural Road No. 1415 to Rural Road No. 1416 and ending at the intersection of Rural Road No. 1415 and Rural Road No. 1416; and south of the following line:

BEGINNING at Highway No. 171, south of the Martin County line running northerly along the west side of Highway No. 171 to Rural Road No. 1500, thence north along the west side of Rural Road No. 1500 to Rural Road No. 1528, thence west along the south side of Rural Road No. 1528 to Rural Road No. 1527, thence west along the south side of Rural Road No. 1527 to Rural Road No. 1516, thence north along the south side of Rural Road No. 1516 to Rural Road No. 1525, thence west along the south side of Rural Road No. 1525 to Rural Road No. 1523, thence west along the south side of Rural Road No. 1523 to Rural Road No. 1114, thence west along the south side of Rural Road No. 1114 to the intersection of Rural Road No. 1114 and US Highway No. 17; BEGINNING again at a point on the south and west side of the intersection of Rural Road No. 1523 and Rural Road No. 1525 running south along the west side of Rural Road No. 1523 to Rural Road No. 1524,

running west along the northern side of Rural Road No. 1524 to Rural Road No. 1106, thence south along the west side of Rural Road No. 1106 to Rural Road No. 1533, thence south along the west side of Rural Road No. 1533 to Rural Road No. 1534, thence west along the north side of Rural Road No. 1534 and ending at the County line of Martin County and Beaufort County. All roads marking the above boundaries and all roads encompassed by the above boundaries are included within the prohibitions of this act.

Sec. 2. Any person, association of persons, or any firm or corporation violating the provisions of this act shall be guilty of a misdemeanor, and upon conviction shall be fined a sum not to exceed fifty dollars (\$50.00) or imprisoned for a period not to exceed 30 days, or both, in the discretion of the court.

Sec. 3. All lawful peace officers of the county and State, including wildlife game protectors, are hereby authorized, and it shall be their duty to aid in the enforcement of this law.

Sec. 4. This act shall apply to the portion of Martin County designated in Section 1.

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of April, 1973.

H. B. 684

CHAPTER 258

AN ACT TO PROHIBIT HUNTING OR TAKING OF BEAR IN DARE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It shall be unlawful for any person to take or hunt bear in the Counties of Dare and Craven.

Sec. 2. Violation of this act shall be a misdemeanor punishable by fine or imprisonment at the discretion of the Court.

Sec. 3. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of April, 1973.

H. B. 685

CHAPTER 259

AN ACT PROHIBITING THE RUNNING AND CHASING OF DEER WITH DOGS BETWEEN MARCH 1 AND JUNE 30 IN DARE COUNTY.

Whereas, the Wildlife Resources Commission indicates that the peak of the fawn drop in Eastern North Carolina is from March 1 through June 30 and that does and fawns are highly vulnerable during this period; and

Whereas, one of the primary causes for the decrease in the deer population in eastern North Carolina is the unnecessary killing of doe deer by dogs when the deer are heavy with fawn and unable to escape the dogs; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. It shall be unlawful for any person, by or with the use of dogs, to run or chase deer between March 1 and June 30.

Sec. 2. It shall be unlawful for any person to allow dogs to run or chase deer between March 1 and June 30.

Sec. 3. Violation of this act shall be a misdemeanor punishable by a fine of not more than one hundred dollars (\$100.00) or imprisonment not to exceed 30 days, or both, at the discretion of the court.

Sec. 4. This act shall apply to Dare County.

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of April, 1973.

H. B. 704

CHAPTER 260

AN ACT TO AMEND CHAPTER 874 OF THE SESSION LAWS OF 1947 RELATING TO THE DISTRIBUTION OF PROFITS FROM ABC STORES IN CARTERET COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 874 of the Session Laws of 1947 is hereby amended by rewriting the same to read as follows:

"Section 1. That Section 4 of Chapter 539 of the Public-Local Laws of 1939 be and the same is hereby amended by: In place of the period now appearing and adding thereto the following this colon (:), the following provision:

'Provided further that the store now located in the Town of Newport may be moved to a location on U.S. Highway 70 immediately outside the town limits, but the Town of Newport shall continue to receive fifty percent (50%) of the net profits of this store, and the store shall not again be moved without the consent of the governing Board of the Town of Newport.'"

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of April, 1973.

H. B. 977

CHAPTER 261

AN ACT TO PROVIDE A SUPPLEMENTAL RETIREMENT FUND FOR FIREMEN IN THE TOWN OF TARBORO AND TO MODIFY THE APPLICATION OF G.S. 118-5, 118-6 and 118-7 TO THE TOWN OF TARBORO.

The General Assembly of North Carolina enacts:

Section 1. Supplemental retirement fund created. The Board of Trustees of the Local Firemen's Relief Fund of the Town of Tarboro, as established in accordance with G.S. 118-6, hereinafter called the Board of Trustees, shall create and maintain a separate fund to be called the Tarboro Firemen's Supplemental Retirement Fund, hereinafter called the Supplemental Retirement Fund, and shall maintain books of account for such Fund, separate from the books of account of the Firemen's Local Relief Fund of the Town of Tarboro, hereinafter called the Local Relief Fund. The Board of Trustees shall pay into the Supplemental Retirement Fund the funds prescribed by this act.

Sec. 2. Transfers of funds and disbursements. Notwithstanding the provisions of G.S. 118-7, the Board of Trustees of the Local Firemen's Relief Fund of the Town of Tarboro shall:

(a) prior to January 1, 1974, transfer to the Supplemental Retirement Fund

all funds, including earnings on investments, of the Local Relief Fund in excess of twenty-five thousand dollars (\$25,000);

(b) at any time when the amount of funds in the Local Relief Fund shall by reason of disbursements authorized by G.S. 118-7, be less than twenty-five thousand dollars (\$25,000), transfer from the Supplemental Retirement Fund to the Local Relief Fund an amount sufficient to maintain in the Local Relief Fund the sum of twenty-five thousand dollars (\$25,000);

(c) as soon as practicable after January 1 of each year, but in no event later than July 1, divide the sum of the annual funds paid to the Local Relief Fund by authority of G.S. 118-5, the income earned in the preceding calendar year upon investments of funds belonging to the Local Relief Fund and the income earned in the preceding calendar year upon investments of funds belonging to the Supplemental Retirement Fund into equal amounts of disbursement the same as Supplemental Retirement benefits in accordance with Section 3 of this act. Provided, however, in the event the total amount of these funds in any calendar year exceeds the total of the benefit limits of six hundred dollars (\$600.00) per annum per eligible person, as set forth in Section 3 of this act, such excess amount shall become a part of the Supplemental Retirement Fund.

Sec. 3. Supplemental retirement benefits. (a) Each fireman whether fully paid or partly paid who retired subsequent to January 1, 1970, with 20 years or more service and has attained the age of 55, shall be entitled to and shall receive in each calendar year following the calendar year in which he retires an annual supplemental retirement benefit, provided, in no event shall any retired fireman be entitled to or receive in any year an annual benefit in excess of six hundred dollars (\$600.00).

(b) Any fireman who is not otherwise entitled to supplemental retirement benefits under subsection (a) of this section shall nevertheless be entitled to such benefits in any calendar year in which the Board of Trustees makes the following written findings of fact:

(1) that he initially retired from his position as fireman because of his inability, by reason of sickness or injury, to perform the normal duties of an active fireman; and

(2) that, within 30 days prior to or following his initial retirement as a fireman, at least two physicians licensed to practice medicine in North Carolina certified that he was at such time unable, by reason of sickness or injury, to perform the normal duties of an active fireman; and

(3) that, at the time of his initial retirement as a fireman, there was not available to him in the fire department or in any other department of the town a position of employment the normal duties of which he was capable of performing.

(c) Any fireman who transfers into Tarboro Fire Department may transfer his longevity to said fire department, but must remain active for a period of five years in the Tarboro Fire Department to be eligible to participate in the Supplemental Retirement Fund.

Sec. 4. Intention. It is the intention of Section 3 of this act to authorize the disbursement as supplemental retirement benefits only of the income derived in any calendar year from funds received from Section 2, part c. It is the intention of Section 2 of this act to require that the funds paid into the Supplemental Retirement Fund pursuant to subsections (a) and (c) thereof shall be held in trust, and that no funds paid into the Supplemental Retirement Fund

pursuant to subsections (a) and (c) thereof or as a gift, grant, bequest, or donation to such Fund shall ever be disbursed except as and when required by (b).

Sec. 5. Investment of funds. The Board of Trustees is hereby authorized to invest any funds, either of the Local Relief Fund or of the Supplemental Retirement Fund, in any investment named in or authorized by G.S. 159-28.1, only in accordance with the provisions thereof, and is hereby directed to invest all of the funds of the Supplemental Retirement Fund in one or more of such investments.

Sec. 6. Acceptance of gifts. The Board of Trustees is hereby authorized to accept any gift, grant, bequest, or donation of money for the use of the Supplemental Retirement Fund.

Sec. 7. Bond of Treasurer. The Board of Trustees shall bond the Treasurer of the Local Relief Fund with a good and sufficient bond, in an amount at least equal to the amount of funds in his control, payable to the Board of Trustees, and conditioned upon the faithful performance of his duties; such bond shall be in lieu of the bond required by G.S. 118-6. The Board of Trustees shall pay from the Local Relief Fund the premiums of the bond of the Treasurer.

Sec. 8. If any provision of this act shall be declared invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions hereof which can be given effect without the invalid provision, and to this end the provisions of this act are declared to be severable.

Sec. 9. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 10. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 24th day of April, 1973.

H. B. 366

CHAPTER 262

AN ACT TO AMEND CHAPTER 55 TO SET A MAXIMUM FEE TO BE CHARGED BY THE SECRETARY OF STATE UPON THE CHANGE OF ADDRESS OF A REGISTERED CORPORATE AGENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 55-14(e) is hereby amended by rewriting the last sentence thereof to read as follows:

"The fee to be charged by the Secretary of State for the filing of such certificate shall be three dollars (\$3.00) for each corporation listed in said certificate, the total not to exceed two hundred dollars (\$200.00)."

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective on and after October 1, 1973.

In the General Assembly read three times and ratified, this the 25th day of April, 1973.

H. B. 674

CHAPTER 263

AN ACT CONCERNING TAXING DISTRICTS IN GUILFORD COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-124, G.S. 69-25.1 and G.S. 153-368 are hereby amended by adding at the end of each respective section a new paragraph to read as follows:

"Notwithstanding the provisions of this Article, the Board of County Commissioners of Guilford County shall have the authority to amend or change any proposed taxing district or to amend any proposed change in an existing taxing district in Guilford County. The Board of County Commissioners shall also have the authority to deny any petition to establish or modify such taxing district. Any registered voter in Guilford County who owns real property in any proposed taxing district to be established or in any district proposed to be modified, may register and become an eligible voter in any district election or referendum except bond elections and any election on the levy of taxes submitted in connection with the issuance of general obligation or revenue bonds."

Sec. 2. This act shall only be applicable to Guilford County.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of April, 1973.

H. B. 683

CHAPTER 264

AN ACT TO PROHIBIT THE USE OF ANY RIFLE OF A CALIBER LARGER THAN .22 FOR HUNTING IN PERQUIMANS COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It shall be unlawful for any person to use any rifle of a caliber larger than .22 while hunting in Perquimans County, in the absence of the written permission of the landowner.

Sec. 2. This act is not intended to prohibit the use of shotguns.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of April, 1973.

H. B. 701

CHAPTER 265

AN ACT TO INCORPORATE THE TOWN OF PINE KNOLL SHORES IN CARTERET COUNTY SUBJECT TO AN ELECTION.

The General Assembly of North Carolina enacts:

Section 1. (a) The Board of Elections in Carteret County is hereby authorized to call and conduct a special election on such date as it shall determine for the purpose of submitting to the qualified voters for the area hereinafter described as the proposed corporate limits of the Town of Pine Knoll Shores, the question whether or not such area shall be incorporated as a municipal corporation known as the Town of Pine Knoll Shores, and to elect the members of the governing body if said area is incorporated. On the election day, the polls shall be open from 6:30 A.M. until 6:30 P.M. The Board of Elections for Carteret County in conducting the election required to be held herein shall

follow the procedure as outlined in this act and the General Statutes of North Carolina relating to municipal elections where not in conflict with this act.

(b) A new registration of all qualified voters in the described area shall be conducted for the purpose of registering the names of those who desire to vote in such special election. The registration book for such new registration shall be open for thirty (30) days prior to the election and shall remain open each day from 9:00 A.M. until 5:00 P.M. and shall be kept at the office of Pine Knoll Shores on Yaupon Road.

The Saturday before the election shall be Challenge Day.

(c) The Board of Elections of Carteret County shall, not later than thirty (30) days before the election, appoint a registrar and two judges of election and designate a polling place for the special election.

(d) Not later than thirty (30) days before the election, the Board of Elections of Carteret County shall cause to be posted at the Pine Knoll Shores office on Yaupon Road and at such other public places as the Board may choose, a notice stating the time, the polling place, and the purpose of the special election; the names of the registrar and judges of election; the dates, hours, and place or places of registration; the date, time and place for challenges; that the registration is a complete new registration for the special election; and that candidates for election to the Town Board of Commissioners must file with the Board notice of candidacy not earlier than forty-five (45) days and not later than thirty (30) days before the election. The Board of Elections may, in its discretion, also cause such notice to be published one or more times in a newspaper having general circulation in the Pine Knoll Shores Community.

(e) Any qualified voter who would offer himself or herself as a candidate for Commissioner in such election shall file with the Chairman or Clerk of the Board of Elections of Carteret County a statement giving written notice of his candidacy. Such notice shall be filed not earlier than forty-five (45) days and not later than thirty (30) days before the election and shall be substantially in the following form:

"I, _____, do hereby give notice that I am a candidate for election to the office of Commissioner, Town of Pine Knoll Shores, to be voted on at the election to be held on call of the Board of Elections, Carteret County, and I hereby request that my name be placed on the official ballot for such office. I certify that I am a resident and qualified voter of the Town of Pine Knoll Shores, residing at _____"

(Date)

(Signature)

(f) In the special election, a ballot shall be used upon which shall be printed the words "FOR Incorporation of the Town of Pine Knoll Shores" and the words "AGAINST Incorporation of the Town of Pine Knoll Shores". Those voters who favor the incorporation of the Town of Pine Knoll Shores shall vote "FOR Incorporation of the Town of Pine Knoll Shores". Those voters who are opposed to the incorporation of the Town of Pine Knoll Shores shall vote "AGAINST Incorporation of the Town of Pine Knoll Shores".

(g) Also in this special election, each qualified registered voter shall be entitled to vote for six (6) candidates for Commissioner upon a ballot on which shall be listed, in alphabetical order, the names of all persons who filed notice of

candidacy with the Board of Elections during the period hereinbefore established.

Sec. 2. If a majority of the votes cast in such special election shall be cast “AGAINST Incorporation of the Town of Pine Knoll Shores”, then “the Charter of the Town of Pine Knoll Shores” of this act shall have no force and effect.

Sec. 3. If a majority of the votes cast in such special election shall be cast “FOR Incorporation of the Town of Pine Knoll Shores”, then “the Charter of the Town of Pine Knoll Shores” of this act shall be in full force and effect from and after the date of the election.

Sec. 4. (a) In the special election, the six (6) candidates for Commissioner who receive the largest number of votes cast for Commissioner shall be declared elected to serve until the regular municipal election to be held in 1975, or until their successors are elected and qualified. In case of a tie between opposing candidates, the Board of Elections shall determine the result by lot.

(b) The Chairman of the Board of Elections shall notify the persons elected as Commissioners, and shall designate some qualified officer to administer to them the oath of office, which shall be done as soon as practical following their election.

(c) Those elected as Commissioners shall at their first meeting appoint one of the Commissioners as Mayor to serve until the election in 1975.

Sec. 5. The following provisions of law shall constitute the Charter of the Town of Pine Knoll Shores in Carteret County.

“THE CHARTER OF THE TOWN OF PINE KNOLL SHORES

“ARTICLE I. INCORPORATION AND CORPORATE POWERS

“Sec. 1. *Incorporation and General Powers.* The inhabitants of the area described in Section 2.1 of this Charter shall be and constitute a body politic and corporate under the name of the “Town of Pine Knoll Shores”, and shall be vested with all property which may be acquired by the Town, and all rights herein delegated to it; shall have perpetual succession; may have a common seal and alter and renew the same at pleasure; may sue and be sued; may contract; may acquire and hold all such property, real and personal, as may be devised, bequeathed, sold or in any manner conveyed to, dedicated to, or otherwise acquired by it, and may from time to time hold or invest, sell, or dispose of the same; and shall have and may exercise in conformity with this Charter all municipal powers, functions, rights, privileges, and immunities of every name and nature.

“Sec. 1.2. *Exercise of Powers.* All powers, functions, rights, privileges, and immunities of the Town, its officers, agencies, or employees, shall be carried into execution as provided by this Charter, or, if this Charter makes no provision, as provided by ordinance or resolution of the Board of Commissioners and as provided by the general laws of North Carolina pertaining to municipal corporations.

“Sec. 1.3. *Enumerated Powers Not Exclusive.* The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive but, in addition to the powers enumerated herein or implied hereby, or those appropriate to the exercise of such powers, the Town of Pine Knoll Shores shall have and may exercise all powers which are granted to municipal corporations by the general laws of North Carolina and all powers which, under the

Constitution of North Carolina, it would be competent for this Charter specifically to enumerate.

"ARTICLE II. CORPORATE BOUNDARIES

"Sec 2.1. *Corporate Boundaries.* The corporate boundaries of the Town of Pine Knoll Shores, until changed in accordance with law are as follows:

On Bogue Banks, in Morehead Township, and beginning at a point on the northern margin of the Salter Path Road; which point is 70 feet North of the presently existing center line of said Road and located 40 feet North of the Silver Sands Estates' southwest corner on said Road (Map Book 6, page 13, Carteret County Registry); said beginning point being also the southeast corner of the Bogue Enterprises Ltd. (Golf Course) properties, as conveyed by deed dated 1 February, 1969, from Cornelius Van Schaak Roosevelt, et als, as recorded in Book 308, page 334, Carteret County Registry; running thence South 5°-20' West and across the said Salter Path Road 100 feet to a point in the southern margin of the Salter Path Road right-of-way; runs thence with the southern margin of the Salter Path Road right-of-way South 87°-15' East to a point in said right-of-way at the northeast corner of Lot #1 on the map showing 'Beach Front Area West of Morehead Beach Fishing Pier', as recorded in Map Book 4, page 96, Carteret County Registry, said point being also the northwest corner of the Morehead Ocean Pier Inc. property; runs thence with the eastern lot line of said Lot #1, South 4°-45' West approximately 500 feet to the ordinary high-water mark of the Atlantic Ocean; thence continuing the same course, South 4°-45' West and into the waters of the Atlantic Ocean 2500 feet; thence westwardly and at a distance of 2500 feet, measured perpendicularly from the ordinary high-water mark of the Atlantic Ocean, to a point at which said line intersects the prolongation of the eastern line of the Episcopal Church property as deeded by Mrs. Alice Hoffman, said deed recorded in Book 123, page 259, Carteret County Registry; runs thence northwardly and with the Episcopal Church property east line to the ordinary high-water mark of Bogue Sound; thence continuing the same course, and with the prolongation of the Episcopal Church property east line 2500 feet to a point in Bogue Sound; runs thence eastwardly and at a distance of 2500 feet, measured perpendicularly from the ordinary high-water mark of Bogue Sound, to a point at which said line intersects the prolongation of the eastern property line of the Bogue Enterprises Ltd. (Golf Course) property; and running thence and with the Bogue Enterprises Ltd. (Golf Course) property east line South 5°-20' West approximately 4,480 feet to the point of beginning.

"ARTICLE III. MAYOR AND BOARD OF COMMISSIONERS

"Sec. 3.1. *Mayor and Mayor Pro Tempore.* The Mayor shall be elected by the Board of Commissioners from its own members, and he shall hold office for two (2) years except as otherwise provided herein. In case of a vacancy in the office of Mayor, the remaining members of the Board of Commissioners shall choose from their own number his successor for the unexpired term. The Mayor shall be the official head of the Town government and shall preside at all meetings of the Board of Commissioners. When there is an equal division upon any question, or in the appointment of officers, by the Board, the Mayor shall determine the matter by his vote, and shall vote in no other case. The Mayor shall exercise such powers and perform such duties as are or may be conferred upon him by the general laws of North Carolina, by this Charter, and by the ordinances of the Town. The Board of Commissioners shall choose one of its

number to act as Mayor Pro Tempore, and he shall perform the duties of the Mayor in the Mayor's absence or disability. The Mayor Pro Tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the Board.

"Sec. 3.2. *Composition of Board of Commissioners.* The Board of Commissioners shall consist of six (6) members to be elected by and from the qualified voters of the Town voting at large in the manner provided by Article IV.

"Sec. 3.3. *Terms; Qualifications; Vacancies.* (a) Except as otherwise provided herein, the members of the Board of Commissioners shall serve for terms of four (4) years, beginning the day and hour of the organizational meeting following their election, as established by ordinance in accordance with this Charter; provided, they shall serve until their successors are elected and qualify.

(b) No person shall be eligible to be a candidate or be elected as a member of the Board of Commissioners, or to serve in such capacity, unless he is a resident and a qualified voter of the Town.

(c) If any elected Commissioner shall refuse to qualify, or if there shall be any vacancy in the office of Commissioner after election and qualification, the remaining members of the Board shall by majority vote appoint some qualified person to serve for the unexpired term. Any Commissioner so appointed shall have the same authority and powers as if regularly elected.

"Sec. 3.4. *Compensation of Mayor and Commissioner.* The Town Board of Commissioners may fix its own compensation and allowances, and the compensation and allowances of the Mayor, in such sums as may be just and reasonable, effective following the next regular municipal election for seats on the Town Board of Commissioners. The compensation and allowances of the Mayor shall not be reduced during the then current term of office. Any action taken under this section shall be published at least once in some newspaper having general circulation in Pine Knoll Shores, as provided by North Carolina General Statute 1-597, and shall not be taken after 14 days before the deadline for filing notice of candidacy for the Board of Commissioners.

"Sec. 3.5. *Organization of Board; Oaths of Office.* The Board of Commissioners shall meet, elect the Mayor and organize for the transaction of business at the first regularly scheduled meeting of the Board following each biennial election. Before entering upon their offices, the Mayor and each Commissioner shall take, subscribe, and have entered upon the minutes of the Board the following oath of office:

'I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution and laws of North Carolina not inconsistent therewith and that I will faithfully perform the duties of the office of _____, on which I am about to enter, according to my best skill and ability; so help me, God.'

"Sec. 3.6. *Meetings of Board.* (a) The Board of Commissioners shall fix by ordinance suitable times for its regular meetings. Special meetings may be held on the call of the Mayor or a majority of the Commissioners, and those not joining in the call shall be notified in writing. Any business may be transacted at a special meeting that might be transacted at a regular meeting.

(b) All meetings of the Board of Commissioners shall be open to the public.

The Board shall not by executive session or otherwise formally consider or vote upon any question in private session.

"Sec. 3.7. *Quorum; Votes.* (a) A majority of the members elected to the Board of Commissioners shall constitute a quorum for the conduct of business, but a less number may adjourn from time to time and compel the attendance of absent members in such manner as may be prescribed by ordinance. The number required for a quorum shall not be affected by vacancies.

(b) The affirmative vote of a majority of the members of the Board of Commissioners shall be necessary to adopt any ordinance, or any resolution or motion having the effect of an ordinance. All other matters to be voted upon shall be decided by a majority of the members present and voting.

"Sec. 3.8. *Ordinances and Resolutions.* The adoption, amendment, repeal, pleading, or proving of ordinances shall be in accordance with the applicable provisions of the general laws of North Carolina not inconsistent with this Charter. The ayes and noes shall be taken upon all ordinances and resolutions and entered upon the minutes of the Board. The enacting clause of all ordinances shall be: 'BE IT ORDAINED by the Board of Commissioners of the Town of Pine Knoll Shores'. All ordinances and resolutions shall take effect upon adoption unless otherwise provided therein, or unless some provision of the General Statutes provides otherwise.

"ARTICLE IV. ELECTION PROCEDURE

"Sec. 4.1. *Regular Municipal Elections.* Regular municipal elections shall be held on the Tuesday after the first Monday in November of each odd-numbered year, beginning in 1975. In the regular election in 1975, there shall be elected six (6) Commissioners. The three (3) candidates receiving the highest numbers of votes shall be elected for terms of four (4) years and the three (3) candidates receiving the next highest numbers of votes shall be elected for terms of two (2) years. Beginning in the regular election in 1977, and in subsequent elections, all terms shall be for four (4) years.

"Sec. 4.2. *Filing of Candidates.* Each qualified person who would offer himself as a candidate for the office of Commissioner shall file with the Town Clerk a statement giving notice of his candidacy. Such notice shall be filed not earlier than the eighth Friday and not later than five o'clock P.M. on the third Friday prior to the election at which he offers his candidacy, shall be accompanied by payment of a filing fee of five dollars (\$5.00), shall be signed in the presence of the Town Clerk, and shall be substantially in the following form:

'I, _____, do hereby give notice that I am a candidate for election to the office of Commissioner, Town of Pine Knoll Shores, to be voted on at the election to be held on _____, and I hereby request that my name be placed on the official ballot for such office. I certify that I am a resident and qualified voter of the Town of Pine Knoll Shores, residing at _____,

(Signature)

(Date)

"Sec. 4.3. *Regulation of Elections.* All municipal elections shall be conducted in accordance with the general laws of North Carolina relating to municipal elections, except as otherwise herein provided. The elections shall be held and conducted by the Carteret County Board of Elections under the applicable provisions of Articles 23 and 24 of Chapter 163 of the General Statutes. The elections shall be nonpartisan and decided by a simple plurality. No primary elections shall be held.

“ARTICLE V. TOWN ATTORNEY

“Sec. 5.1. *Appointment; Qualifications; Terms; Compensation.* The Board of Commissioners may appoint a Town Attorney who shall be an attorney-at-law licensed to engage in the practice of law in North Carolina and who need not be a resident of the Town during his tenure. The Town Attorney shall serve at the pleasure of the Board and shall receive such compensation as the Board shall determine.

“Sec. 5.2. *Duties of Town Attorney.* It shall be the duty of the Town Attorney to prosecute and defend suits for and against the Town; to advise the Mayor, Board of Commissioners and other Town officials with respect to the affairs of the Town; to draw all legal documents relating to the affairs of the Town; to draw proposed ordinances when requested to do so; to inspect and pass upon all agreements, contracts, franchises and other instruments with which the Town may be concerned; to attend all meetings of the Board; and to perform such other duties as may be required of him by virtue of his position as Town Attorney.

“ARTICLE VI. ADMINISTRATIVE OFFICERS AND EMPLOYEES

“Sec. 6.1. *Town Clerk.* The Board of Commissioners may appoint a Town Clerk to keep a journal of the proceedings of the Board and to maintain in a safe place all records and documents pertaining to the affairs of the Town, and to perform such other duties as may be required by law or as the Board may direct.

“Sec. 6.2. *Town Tax Collector.* The Board of Commissioners may appoint a Tax Collector to collect all taxes, licenses, fees and other monies belonging to the Town subject to the provisions of this Charter and the ordinances of the Town, and he shall diligently comply with and enforce all the general laws of North Carolina relating to the collection, and foreclosure of taxes by municipalities.

“Sec. 6.3. *Town Accountant.* The Board of Commissioners may appoint a Town Accountant to perform the duties of the Accountant as required by the Municipal Fiscal Control Act.

“Sec. 6.4. *Consolidation of Functions.* The Board of Commissioners may, in its discretion, consolidate the functions of any two or more of the positions of Town Clerk, Town Tax Collector, and Town Accountant, or may assign the functions of any one or more of these positions to the holder or holders of any other of these positions. The Board may also, in its discretion, designate a single employee to perform all or any part of the functions of any of the named positions, in lieu of appointing several persons to perform the same.

“Sec. 6.5. *Other Employees.* The Board of Commissioners may create and fill by appointment such other positions as it deems advisable to insure the efficient administration of the Town's affairs, and may, in its discretion, appoint a person to supervise all Town departments and may delegate to such person the power of appointment and removal of department heads and employees, other than the Town Attorney.

“ARTICLE VII. FINANCE

“Sec. 7.1. *Custody of Town Money.* All monies received by the Town for and in connection with the business of the Town government shall be paid promptly into the Town depository. Such institution shall be designated by the Board of Commissioners in accordance with such regulations and subject to such requirements as to security for deposits and interest thereon as may be established by the General Statutes of North Carolina. All interest on monies belonging to the Town shall accrue to the benefit of the Town. All monies

belonging to the Town shall be disbursed only in accordance with the provisions of the Municipal Fiscal Control Act.

"Sec. 7.2. *Issuance of Bonds.* The Town may issue bonds for the purposes and in the manner prescribed by the General Statutes of North Carolina relating to the issuance of bonds by municipalities.

"Sec. 7.3. *Purchases and Contracts.* Purchases of apparatus, supplies, materials, and equipment, and contracts for construction or repair work, shall be made in accordance with the General Statutes of North Carolina relating thereto.

"Sec. 7.4. *Independent Audit.* As soon as practicable after the close of each fiscal year, an independent audit shall be made of all books and accounts of the Town government by a certified public accountant or a qualified public accountant registered under Chapter 93 of the General Statutes of North Carolina, who shall have no personal interest directly or indirectly in the affairs of the Town or of any of its officers. The Board of Commissioners shall select the public accountant, and the results of such audit shall be made available for inspection by any interested citizen of the Town, and may be published if so ordered by the Board.

"Sec. 7.5. *Taxation.* The territory within the corporate limits, and its citizens and property, shall be subject to municipal taxes levied by the Town. For the purpose of levying taxes for the fiscal year beginning July 1, 1973, the Town shall obtain from Carteret County, and the Carteret County Tax Supervisor shall provide upon request from time to time a record of property within the corporate limits listed for taxation as of January 1, 1973.

"Sec. 7.6. The Board of Commissioners shall not expend tax monies in excess of ten thousand dollars (\$10,000) for any single new facility or major improvement without first obtaining the approval of at least a majority of the qualified voters of the Town.

"ARTICLE VIII. CLAIMS AGAINST THE TOWN

"Sec. 8.1. *Tort Claims.* All claims or demands against the Town arising in tort shall be presented to the Board of Commissioners in writing, signed by the claimant or his attorney or agent, within ninety (90) days after such claim or demand is due or the cause of action accrues. No suit or action shall be brought on such a claim or demand within thirty (30) days or after the expiration of twelve (12) months from the time such claim or demand is presented. Unless the said claim or demand is so presented within ninety (90) days, and unless suit is brought within twelve (12) months thereafter, any action thereon shall be barred."

Sec. 6. If any provision of this act or the application thereof to any person or circumstances is held invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions or application of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 7. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed to the extent of such conflict.

Sec. 8. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 25th day of April, 1973.

H. B. 742

CHAPTER 266

AN ACT TO AMEND CHAPTER 261, SESSION LAWS OF 1967, TO PROVIDE ADDITIONAL COMPENSATION FOR MEMBERS OF THE ANSON COUNTY BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. The last sentence in Section 4 of Chapter 261, Session Laws of 1967, is repealed and the following added in lieu thereof:

"The members of the Anson County Board of Education shall be paid the sum of twenty-five dollars (\$25.00) per month. Each board member shall be entitled to additional compensation in the amount of fifteen dollars (\$15.00) for each meeting of the board attended in excess of one meeting per month. This additional compensation may be paid for a maximum of 10 meetings per year in excess of the regular monthly meeting."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of April, 1973.

H. B. 752

CHAPTER 267

AN ACT TO AMEND CHAPTER 926 OF THE 1947 SESSION LAWS, AS AMENDED, ESTABLISHING THE CHARLOTTE FIREMEN'S RETIREMENT SYSTEM RELATING TO INVESTMENT OF FUNDS.

The General Assembly of North Carolina enacts:

Section 1. Sec. 4(c)(6) of Chapter 926, 1947 Session Laws, as amended, is hereby further amended by deleting the word "three" and substituting in lieu thereof the word "four".

Sec. 2. Sec. 4(c)(7) of Chapter 926, 1947 Session Laws, as amended, is hereby further amended by deleting the word "three" and substituting in lieu thereof the word "four".

Sec. 3. Sec. 4.1(8) of Chapter 926, 1947 Session Laws, as amended, is hereby further amended by deleting the words and numbers "Forty-five per centum (45%)" and substituting in lieu thereof the words and numbers "Sixty per centum (60%)".

Sec. 4. This act shall apply to the City of Charlotte only.

Sec. 5. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 25th day of April, 1973.

H. B. 754

CHAPTER 268

AN ACT TO AUTHORIZE THE ESTABLISHMENT OF A COUNTY POLICE DEPARTMENT IN BURKE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The Board of County Commissioners of Burke County is hereby authorized to establish a Burke County Police Department, to establish policies and regulations to govern the operation of the Department, to appropriate funds for its operation and to authorize the county manager to appoint a police chief and such other officers and employees as may be necessary.

Sec. 2. The police chief and the members of the county police

department shall have all the powers and authority of peace officers and law enforcement officers provided for under the Constitution, the laws and common law of the State of North Carolina. It shall be the duty of the county policemen, under the general control and direction of the police chief, to patrol and police the County; to detect and prevent the violation of criminal laws of any and every kind; to make arrests upon his own initiative as well as upon information and complaints; to report his acts and all known or suspected violations of the criminal laws to the Chief of Police of the County; to obtain warrants for arrests for and to prosecute all persons who have violated any of the criminal laws; and they shall at all times obey and carry out the orders and instructions of the police chief, when not inconsistent with the law and with this act. The county policemen shall have the power and authority and shall be required to serve all criminal processes and indictments issued by any lawful authority and placed in their hands for service, and may perform civil duties when directed by the chief.

Sec. 3. Nothing in this act shall be construed in any way as limiting or restricting the powers, duties or authority of the Sheriff of Burke County or any of his deputies.

Sec. 4. The law enforcement powers of the county police shall be limited to the areas outside of municipalities except that such powers may be exercised within any municipality where there is a written agreement between the county and the municipality to that effect.

Sec. 5. A merit board may be established and its members appointed by the county commissioners which shall oversee procedures for recruiting and testing applicants for appointment to the County Police Department and shall certify qualified applicants to the designated appointing official.

Sec. 6. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 7. This enabling act shall become effective upon ratification, provided, that a Burke County Police Department shall not be created unless and until such time as the Board of County Commissioners shall authorize the establishment of such police department by resolution or by the adoption of an ordinance.

In the General Assembly read three times and ratified, this the 25th day of April, 1973.

S. B. 608

CHAPTER 269

AN ACT TO PROVIDE FOR ISSUANCE OF JUVENILE PETITIONS IN
AFTER-HOUR EMERGENCIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-281 is amended by inserting a new paragraph between the two existing paragraphs of said section as follows:

"When the office of the clerk of superior court is closed, a magistrate or other court official or officials may be authorized by the chief judge of the district court to issue juvenile petitions when requested by a juvenile probation officer, a representative of the County Department of Social Services or a law enforcement officer. Such authority is limited to emergency situations such as cases where a petition is required in order to detain a child after hours. Any

juvenile petition so issued shall be delivered to the office of the clerk of superior court for customary processing as soon as said office is open for business."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of April, 1973.

S. B. 611

CHAPTER 270

AN ACT TO CLARIFY LEGISLATIVE PURPOSE IN EXERCISING JUVENILE JURISDICTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-277 is rewritten to read as follows:

"The purpose of this Article is to provide procedures and resources for children within the juvenile jurisdiction of the district court which are different in purpose and philosophy from the procedures applicable to criminal cases involving adults. These procedures are intended to provide a simple judicial process to provide such protection, treatment, rehabilitation or correction as may be appropriate in relation to the needs of each child subject to juvenile jurisdiction and the best interest of the State. The intent of this Article is to assure that, where possible, the court will arrange for the available community resources to be utilized to strengthen the child's family relationships in order to avoid removal of the child from his own home or community. Therefore, this Article should be interpreted as remedial in its purposes to the end that any child subject to the procedures applicable to children in the district court will be benefitted through the exercise of the court's juvenile jurisdiction."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of April, 1973.

H. B. 745

CHAPTER 271

AN ACT AUTHORIZING THE CREATION OF THE CHAPEL HILL TRANSIT AUTHORITY.

The General Assembly of North Carolina enacts:

Section 1. *Chapel Hill Transit Authority; creation, membership.*—The Town of Chapel Hill may, by ordinance, create a transit authority (hereinafter sometimes referred to as the "Authority"). The official name of the Authority shall be "Chapel Hill Transit Authority". It shall be a body corporate and politic. It shall consist of five, seven, or nine members as determined by the Board of Aldermen of the Town of Chapel Hill.

Members of the Authority shall reside within the territorial jurisdiction of the Authority as hereinafter set out. They shall be appointed by the Mayor and Board of Aldermen of the Town of Chapel Hill. All appointments shall be for a term of three years, except that as to those members first appointed as nearly as possible, one-third shall be appointed for a one-year term, one-third shall be appointed for a two-year term, and one-third shall be appointed for a three-year term. The date from which regular three-year terms shall run shall be established by ordinance. Appointments to fill vacancies occurring during the regular terms shall be made by the Mayor and Board of Aldermen. The

appointments of all members shall run until their successors are appointed and qualified.

The members of the Authority shall elect a chairman and vice-chairman from the membership of the Authority. They shall also elect a secretary who may, or may not, be a member of the Authority.

A majority of the members shall constitute a quorum for the transaction of business and an affirmative vote of the majority of the members present at a meeting of the Authority shall be required to constitute action of the Authority. Members of the Authority shall receive such compensation, if any, as may be fixed by the Board of Aldermen of the Town of Chapel Hill.

Sec. 2. *Purpose of the Authority.*—The purpose of the Authority shall be to provide for a safe, adequate and convenient public transportation system for the Town of Chapel Hill and its immediate environs through the granting of franchises, ownership and leasing of terminals, buses and other transportation facilities and equipment, and otherwise through the exercise of the powers and duties conferred upon it.

Sec. 3. *General powers of the Authority.*—The general powers of the Authority shall be:

1. To sue and be sued.
2. To have a seal.
3. To make rules and regulations, not inconsistent with this act, for its organization and internal management.
4. To employ persons deemed necessary to carry out functions and duties assigned to them by the Authority and to fix their compensation, within the limit of available funds.
5. With the approval of the Town Manager, to use officers, employees, agents and facilities of the Town on such basis as may be agreed upon.
6. To retain and employ counsel, auditors, engineers and private consultants on an annual salary, contract basis, or otherwise for rendering professional or technical services and advice.
7. To acquire, maintain and operate such buildings, structures and facilities as may be necessary or convenient for the operations of the Authority.
8. To make or enter into contracts, agreements, deeds, leases, conveyances or other instruments, including contracts and agreements with the United States and the State of North Carolina.
9. To surrender to the Town any property no longer required by the Authority.
10. To make plans, surveys and studies of transit facilities within the territorial jurisdiction of the Authority and to prepare and make recommendations in regard thereto.
11. To enter into and perform contracts with public transportation companies with respect to the operation of public passenger transportation.
12. To issue certificates of public convenience and necessity: to grant franchises and enter into franchise agreements and in all respects to regulate the operation of buses, taxicabs and other methods of public passenger transportation within the territorial jurisdiction of the Authority as fully as the Town of Chapel Hill is now or hereafter empowered to do within the territorial jurisdiction of the Town of Chapel Hill.
13. To enter into and perform contracts to operate public transportation services and facilities and to own or lease property, facilities and equipment

necessary or convenient therefor, and to rent, lease or otherwise sell the right to do so to any person, public or private. Further, to the extent authorized by ordinance of the Town of Chapel Hill, to obtain grants, loans and assistance from the United States, the State, any public body, or any private source whatsoever, including, but not limited to, the Urban Mass Transportation Act of 1964, as heretofore or hereafter amended.

14. To do all things necessary or convenient to carry out its purpose and for the exercise of the powers granted to the Authority.

Sec. 4. *Authority of Utilities Commission not affected.*—Nothing in this act shall be construed to limit or otherwise affect the power or authority of the North Carolina Utilities Commission or the right of appeal to the North Carolina Utilities Commission as provided by law.

Sec. 5. *Territorial jurisdiction.*—The jurisdiction of the Authority shall extend to all local public passenger transportation operating within the Town of Chapel Hill and within three miles outside of the corporate limits of the Town of Chapel Hill, as now or hereafter established. It shall not have jurisdiction over public transportation subject to the jurisdiction of and regulated by the I. C. C., nor shall it have jurisdiction over intrastate public transportation which confines its passenger operations in Chapel Hill to picking up or discharging passengers whose point of origin or destination is more than three miles outside the corporate limits of the Town of Chapel Hill.

Sec. 6. *Fiscal accountability.*—The Authority shall be fiscally accountable to the Town of Chapel Hill and the Board of Aldermen shall have authority to examine all records and accounts of the Authority at any time.

Sec. 7. *Funds.*—The establishment and operation of a Transit Authority as herein authorized is a governmental function and a public purpose and the Town of Chapel Hill is hereby authorized to appropriate funds to support the establishment and operation of the Transit Authority. The Town of Chapel Hill may also dedicate, sell, convey, donate or lease any of its interest in any property to the Authority. Further, the Authority is hereby authorized to establish such license and regulatory fees and charges as it may deem appropriate, subject to the approval of the Board of Aldermen. If the Board of Aldermen finds that the funds otherwise available are insufficient, it may call a special election without a petition and submit to the qualified voters of the Town the question of whether or not a special tax shall be levied and/or bonds issued, specifying the maximum amount thereof, for the purpose of acquiring lands, buildings, equipment and facilities and for the operations of the Transit Authority.

Sec. 8. *Effect on existing franchises and operations.*—In the event a Transit Authority is established under the authority of this act, any existing franchises granted by the Town of Chapel Hill shall continue in full force and effect until legally terminated; further, all ordinances and resolutions of the Town of Chapel Hill regulating bus operations and taxicabs shall continue in full force and effect until superseded by regulations of the Transit Authority.

Sec. 9. *Termination.*—The Board of Aldermen of the Town of Chapel Hill shall have the authority to terminate the existence of the Authority at any time. In the event of such termination, all property and assets of the Authority shall automatically become the property of the Town of Chapel Hill and the Town of Chapel Hill shall succeed to all rights, obligations and liabilities of the Authority.

Sec. 10. Insofar as the provisions of this act are not consistent with the

provisions of any other act or law, public or private, the provisions of this act shall be controlling.

Sec. 11. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of April, 1973.

H. B. 746 CHAPTER 272

AN ACT TO AMEND CHAPTER 87 OF THE SESSION LAWS OF 1961 RELATING TO THE CHARTER OF THE TOWN OF CHAPEL HILL.

The General Assembly of North Carolina enacts:

Section 1. Section 5.103 of the Charter of the Town of Chapel Hill as set forth in Section 1, Chapter 87 of the Session Laws of 1961, as amended, is amended by striking therefrom said section and substituting in lieu thereof a new section to read as follows:

"Any subdivision ordinance adopted pursuant to this Article shall contain provisions setting forth the procedures to be followed in granting or denying approval of a subdivision plat prior to its registration. The ordinance may provide that final approval of each individual subdivision plat is to be given by:

1. The Board of Aldermen;
2. The Board of Aldermen on recommendation of the Planning Board; or
3. The Planning Board or a designated planning agency.

The provisions of Section 373 of Chapter 160A of the General Statutes of North Carolina, as amended, shall apply to the recording of said ordinances and plats submitted pursuant thereto."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of April, 1973.

H. B. 748 CHAPTER 273

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF WAKE FOREST AND TO REPEAL PRIOR CHARTER ACTS.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Wake Forest is hereby revised and consolidated to read as follows:

"THE CHARTER OF THE TOWN OF WAKE FOREST

"ARTICLE I. INCORPORATION AND CORPORATE POWERS

"Section 1.1. *Incorporation and General Powers.* The Town of Wake Forest shall continue to be a body politic and corporate under the name of the 'Town of Wake Forest', and shall continue to be vested with all property and rights which now belong to the Town; shall have perpetual succession; may have a common seal and alter and renew the same at pleasure; may sue and be sued; may contract, may acquire and hold such property, real and personal, as may be devised, bequeathed, sold or in any manner conveyed or dedicated to it, or otherwise acquired by it, and may from time to time hold or invest, sell, or dispose of the same; and shall have and may exercise in conformity with this

Charter all municipal powers, functions, rights, privileges, and immunities of every name and nature.

“Sec. 1.2. *Exercise of Powers.* All powers, functions, rights, privileges, and immunities of the Town, its officers, agencies, or employees, shall be carried into execution as provided by this Charter, or, if this Charter makes no provision, as provided by ordinance or resolution of the Board of Commissioners and as provided by the general laws of North Carolina pertaining to municipal corporations.

“Sec. 1.3. *Enumerated Powers not Exclusive.* The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive but, in addition, to the powers enumerated herein or implied hereby, or those appropriate to the exercise of such powers, the Town of Wake Forest shall have and may exercise all powers which are granted to municipal corporations by the general laws of North Carolina and all powers which, under the Constitution of North Carolina, it would be competent for this Charter specifically to enumerate.

“ARTICLE II. CORPORATE BOUNDARIES

“Sec. 2.1. *Existing Corporate Boundaries.* (a) The corporate limits of the Town of Wake Forest shall be those existing at the time of ratification of this Charter and as the same may be altered from time to time in accordance with law. The Board of Commissioners shall cause to be prepared a map to be designated ‘Map of the Town of Wake Forest Corporate Limits’ showing the corporate limits as the same may exist as of the effective date of this Charter. The Board of Commissioners shall also cause to be prepared a written description of the corporate limits as shown on said map to be designated ‘Description of Wake Forest Corporate Limits.’ Said map and description shall be retained permanently in the office of the Town Clerk as the official map and a description of the corporate limits of the Town. Immediately upon alteration of the corporate limits made pursuant to law from time to time the Board of Commissioners shall cause to be made the appropriate changes and/or additions to said official map description. Photographic types or other copies of said official map or description certified as by law provided for the certification of ordinances shall be admitted in evidence in all courts and shall have the same force and other effect as would the official map or description.

(b) The Town Board shall require the redrawing of the official map and the rewriting of the official description as may from time to time be required. A redrawn map and a rewritten description shall supersede for all purposes the earlier maps and descriptions which are respectively replaced.

“Sec. 2.2. *Extension of Corporate Boundaries.* All extensions of the corporate boundaries shall be governed by the General Statutes of North Carolina.

“ARTICLE III. MAYOR AND BOARD OF COMMISSIONERS

“Sec. 3.1. *Composition of Board of Commissioners.* The Board of Commissioners shall consist of five members to be elected by the qualified voters of the Town voting at large in the manner provided in Article IV of this Charter.

“Sec. 3.2. *Mayor and Mayor Pro Tempore.* The Mayor shall be elected by and from the qualified voters of the Town voting at large in the manner provided in Article IV of this Charter. The Mayor shall be the official head of the Town government and shall preside at all meetings of the Board of Commissioners. When there is an equal division on a question, the Mayor shall resolve the

deadlock by his vote, but he shall vote in no other case. The Mayor shall exercise such powers and perform such duties as are or may be conferred upon him by the general laws of North Carolina, by this Charter, and by the ordinances of the Town. The Board of Commissioners shall choose one of its number to act as Mayor Pro Tempore, and he shall perform the duties of the Mayor in the Mayor's absence or disability. The Mayor Pro Tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the Board.

"Sec. 3.3. *Terms; Qualifications; Vacancies.* (a) The members of the Board of Commissioners shall serve for terms of four years, and the Mayor shall serve for a term of four years, beginning the day and hour of the organizational meeting following their election, as established by ordinance in accordance with this Charter; provided, they shall serve until their successors are elected and qualified.

(b) No person shall be eligible to be a candidate or be elected as Mayor or as a member of the Board of Commissioners or to serve in such capacity, unless he is a resident and a qualified voter of the Town, and is twenty-one years of age or older.

(c) In the event a vacancy occurs in the office of Mayor or Commissioner, the Board shall by majority vote appoint some qualified person to fill the same for the remainder of the unexpired term.

"Sec. 3.4. *Organization of Board of Commissioners; Oaths of Office.* The Board of Commissioners shall meet and organize for the transaction of business at the first regularly scheduled meeting of the Board following each biennial election. Before entering upon their offices, the Mayor and each Commissioner shall take, subscribe to and have entered upon the minutes of the Board the following oath of office:

'I, _____, do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina not inconsistent therewith, and I will faithfully discharge the duties of my office as _____, so help me, God.'

"Sec. 3.5. *Meetings of Board.* The Board of Commissioners shall fix a suitable time and place for its regular meetings, which shall be held at least as often as once monthly. Special meetings may be held according to the procedures and requirements designated by the general laws of North Carolina pertaining to special meetings of City Councils.

"Sec. 3.6. *Quorum; Votes.* (a) A majority of the members elected to the Board of Commissioners shall constitute a quorum for the conduct of business, but a less number may adjourn from time to time and compel attendance of the absent members in such manner as may be prescribed by ordinance.

(b) The affirmative vote of a majority of the members elected to the Board of Commissioners not excused from voting on the question in issue shall be necessary to adopt any ordinance, or any resolution or motion having the effect of an ordinance. All other matters to be voted upon shall be decided by a majority vote of those present and voting.

"Sec. 3.7. *Ordinances and Resolutions.* The adoption, amendment, repeal, pleading, or proving of ordinances shall be in accordance with the applicable provisions of the general laws of North Carolina not inconsistent with this Charter. The ayes and noes shall be taken upon all ordinances and resolutions

and entered upon the minutes of the Board. The enacting clause of all ordinances shall be: 'Be it ordained by the Board of Commissioners of the Town of Wake Forest'. All ordinances and resolutions shall take effect upon adoption unless otherwise provided therein.

"ARTICLE IV. ELECTIONS

"Sec. 4.1. *Regular Municipal Elections.* Regular municipal elections shall be held biennially in odd-numbered years on the day set by general law for municipal elections. In the 1975 regular municipal election and quadrennially thereafter there shall be elected a Mayor for a term of four years. In the 1975 regular municipal election and quadrennially thereafter, three commissioners shall be elected to serve terms of four years each. In the 1973 regular municipal election and quadrennially thereafter, two commissioners shall be elected to serve terms of four years each.

"Sec. 4.2. *Regulation of Elections.* All Town elections shall be conducted in accordance with the general laws of North Carolina relating to municipal elections.

"ARTICLE V. TOWN ADMINISTRATOR

"Sec. 5.1. *Appointment; Compensation.* The Town Board of Commissioners shall appoint an officer whose title shall be Town Administrator and who shall be the head of the administrative branch of the Town government. The Town Administrator shall be chosen by the Board solely on the basis of his executive and administrative qualifications with special reference to his actual experience in, or knowledge of, accepted practice in respect to the duties of his office as hereinafter prescribed. At the time of his appointment he need not be a resident of the Town, but shall reside therein during his tenure of office. No person elected as Mayor or as a member of the Board of Commissioners shall be eligible for appointment as Town Administrator until one year shall have elapsed following the expiration of the term for which he was elected. The Town Administrator shall serve at the pleasure of the Board of Commissioners and shall receive such salary as the Board shall fix.

"Sec. 5.2. *Powers and Duties of Town Administrator.* The Town Administrator shall be the chief administrator of the Town. He shall be responsible to the Board of Commissioners for administering all municipal affairs placed in his charge by them, and shall have the following powers and duties:

- (1) He shall appoint and suspend or remove all Town employees, except the Town Attorney, in accordance with such general personnel rules, regulations, policies, or ordinances as the Board may adopt.
- (2) He shall direct and supervise the administration of all departments, offices, and agencies of the Town, subject to the general direction and control of the Board, except as otherwise provided by law.
- (3) He shall attend all meetings of the Board and recommend any measures that he deems expedient.
- (4) He shall see that all laws of the State, the Town Charter, and the ordinances, resolutions, and regulations of the Board are faithfully executed within the Town.
- (5) He shall prepare and submit the annual budget and capital program to the Board.
- (6) He shall annually submit to the Board and make available to the public

a complete report on the finances and administrative activities of the Town as of the end of the fiscal year.

- (7) He shall make any other reports that the Board may require concerning the operations of the Town departments, offices, and agencies subject to his direction and control.
- (8) He shall perform any other duties that may be required or authorized by the Board.

"ARTICLE VI. TOWN ATTORNEY

"Sec. 6.1. *Appointment; Qualifications; Term; Compensation.* The Board of Commissioners shall appoint a Town Attorney who shall be an attorney at law licensed to engage in the practice of law in North Carolina and who need not be a resident of the Town during his tenure. The Town Attorney shall serve at the pleasure of the Board and shall receive such compensation as the Board shall determine.

"Sec. 6.2. *Duties of Town Attorney.* It shall be the duty of the Town Attorney to prosecute and defend suits for and against the Town; to advise the Mayor, Board of Commissioners, Town Administrator, and other Town officials with respect to the affairs of the Town; to draft all legal documents relating to the affairs of the Town; to draft proposed ordinances when requested to do so; to inspect and pass all agreements, contracts, franchises and other instruments with which the Town may be concerned; to attend all meetings of the Board of Commissioners when required by the Board; and to perform such other duties as may be required of him by virtue of his position as Town Attorney.

"ARTICLE VII. ADMINISTRATIVE OFFICERS AND EMPLOYEES

"Sec. 7.1. *Town Clerk.* The Board of Commissioners may appoint a Town Clerk to keep a journal of the proceedings of the Board of Commissioners and to maintain in a safe place all records and documents pertaining to the affairs of the Town, and to perform such other duties as may be required by law or as the Board of Commissioners may direct.

"Sec. 7.2. *Town Tax Collector.* The Board of Commissioners may appoint a Tax Collector to collect all taxes, licenses, fees and other moneys belonging to the Town, subject to the provisions of this Charter and the ordinances of the Town, and he shall diligently comply with and enforce all the general laws of North Carolina relating to the collection, sale, and foreclosure of taxes by municipalities.

"Sec. 7.3. *Town Accountant.* The Board of Commissioners may appoint a Town Accountant to perform the duties of the Accountant as required by the Local Government Budget and Fiscal Control Act.

"Sec. 7.4. *Consolidation of Functions.* The Board of Commissioners may consolidate any two or more of the positions of Town Clerk, Town Tax Collector, and Town Accountant, or may assign the functions of any one or more of these positions to the holder or holders of any other of these positions.

"ARTICLE VIII. FINANCE

"Sec. 8.1. *Custody of Town Money.* All moneys received by the Town for or in connection with the business of the Town government shall be paid promptly into the Town depository or depositories. Such institutions shall be designated by the Town Board in accordance with the regulations and subject to the requirements as to security for deposits and interest thereon as may be established by the General Statutes of North Carolina. All interest on moneys belonging to the Town shall accrue to the benefit of the Town. All moneys

belonging to the Town shall be disbursed in accordance with the provisions of the Local Government Budget and Fiscal Control Act.

"Sec. 8.2. *Independent Audit.* As soon as possible after the close of each fiscal year, an independent audit shall be made of all books and accounts of the Town government by a certified public accountant or an accountant certified by the Local Government Commission. The audit shall be secured in accordance with the provisions of the Local Government Budget and Fiscal Control Act.

"ARTICLE IX. POLICE

"Sec. 9.1. *Jurisdiction.* The jurisdiction of the police force is hereby extended to include all Town-owned property and facilities whether located within or outside the corporate limits, and all members of the police force shall have upon and within such property and facilities all rights, power and authority as they have within the corporate limits.

"ARTICLE X. STREET AND SIDEWALK IMPROVEMENTS

"Sec. 10.1. *Street Improvements; Assessments of Costs.* In addition to any authority which is now or may hereafter be granted by general law to the Town for making street improvements the Board of Commissioners is hereby authorized to make street improvements and to assess the cost thereof against abutting property owners in accordance with the provisions of this Article.

"Sec. 10.2. *When Petition Unnecessary.* The Board of Commissioners may order street improvements and assess the cost thereof, exclusive of the costs incurred at street intersections, against the abutting property owners, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the North Carolina General Statutes, without the necessity of a petition, upon the finding by the Board as a fact:

(a) That the street improvement project does not exceed 1,200 linear feet, and

(b) That such street or part thereof is unsafe for vehicular traffic and it is in the public interest to make such improvement, or

(c) That it is in the public interest to connect two streets, or portions of a street already improved, or

(d) That it is in the public interest to widen a street, or part thereof, which is already improved; provided, that the assessments for widening any street or portion of street without a petition shall be limited to the cost of widening and otherwise improving such street in accordance with the street classification and improvement standards established by the Town's thoroughfare or major street plan for the particular street or part thereof to be widened and improved under the authority granted by this Article.

"Sec. 10.3. *Street Improvement Defined.* For the purposes of this Article, the term 'street improvement' shall include grading, regrading, surfacing, resurfacing, widening, paving, repaving, the acquisition of right-of-way, and the construction or reconstruction of curbs, gutters and street drainage facilities.

"Sec. 10.4. *Sidewalks; Assessment of Costs.* In addition to any authority which is now or may hereafter be granted by general law to the Town for making sidewalk improvements, the Board of Commissioners is hereby authorized, without the necessity of a petition, to make or to order to be made sidewalk improvements or repairs according to standards and specifications of the Town, and to assess the total cost thereof against abutting property owners, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the North Carolina General Statutes; provided, however, that

regardless of the assessment basis or bases employed, the Board of Commissioners may order the cost of sidewalk improvements made only on one side of a street to be assessed against property owners abutting both sides of such street.

“Sec. 10.5. *Assessment Procedure.* In ordering street and sidewalk improvements without a petition and assessing the cost thereof under authority of this Article, the Board of Commissioners shall comply with the procedure provided by Article 10, Chapter 160A of the General Statutes, except those provisions relating to the petition of property owners and the sufficiency thereof.

“Sec. 10.6. *Effect of Assessments.* The effect of the act of levying assessments under the authority of this Article shall for all purposes be the same as if the assessments were levied under the authority of Article 10 of Chapter 160A of the General Statutes.

“Sec. 10.7. *Acceptance of Conveyance in Satisfaction of Assessments.* The Town Tax Collector or other official or employee of the Town having charge of the collection of special assessments, shall have the right, power, and authority, by and with the approval of the Board of Commissioners first obtained and had, to receive and accept a fee simple conveyance to the Town of any lot or parcel of land in the Town, free and clear of other encumbrances, in full settlement and satisfaction of all street and sidewalk assessments outstanding and unpaid against such property. Such right, power, and authority, however, shall be limited to a conveyance of the whole of the lot or parcel of land against which the particular assessment or assessments involved were levied. No lot or tract of land may be divided and no such right, power, and authority exercised as to a part, only, of the property originally embraced in and covered by said assessment or assessments. In the case of such conveyance, it shall not be necessary that the street or sidewalk assessment or assessments against the property be foreclosed; but the Town, upon the receipt of any such conveyance, shall become and be the absolute fee simple owner of the property, as fully to all intents and purposes as if purchased in and through foreclosure proceedings for the enforcement of such street and sidewalk assessment or assessments.

“ARTICLE XI. RETIREMENT SYSTEM

“Sec. 11.1. *Authority.* The Board of Commissioners of the Town of Wake Forest is authorized to establish or provide for by ordinance a retirement system to provide for the payment of benefits to its employees or to their beneficiaries, in the following cases:

- (1) Retirement, because of age;
- (2) Disability;
- (3) Death.

“Sec. 11.2. *Administration Contributions.* Such system shall include such officers and employees of the Town as shall be determined by the Board of Commissioners. The Town shall contribute to the system in such amounts as it shall determine, in order to meet the liabilities accruing because of personal services rendered to the Town by its officers and employees; provided, however, that the system may also provide benefits which are based, partly or entirely, upon personal services rendered to the Town prior to the establishment thereof, and the Town may contribute the entire cost of benefits based on any such prior service. The contribution required to cover the cost of benefits based on prior service, if any, shall be sufficient to fund the liability for such prior service in

not more than 40 years from the date of establishment of the system. The Board of Commissioners may provide that employees shall share in the cost of financing the system, upon such terms as it deems advisable. The expense of administering the system shall be paid as provided by the Board of Commissioners and the Board of Commissioners shall appropriate each year sufficient funds to provide for the expense of the administration.

The system shall be maintained on a solvent actuarial reserve basis for all benefits, excepting the present value of benefits based on prior service.

"Sec. 11.3. *Retirement Board Authorized.* The ordinance may provide for the appointment or election of a retirement board or board of trustees, and for the delegation to such board of such powers and duties as may be deemed necessary to carry out the intent and purpose for which the system is established. If such a retirement board or board of trustees is provided for, the said board shall consist of a member or members of the Board of Commissioners, an employee or employees entitled to participate in the system, and one or more citizens of the Town not officially connected with the Town government nor entitled to participate in the system.

"Sec. 11.4. *Contracting.* The Town may provide for the payment of one or more of the benefits enumerated in Section 11.2 by contracting with the governing body of any other municipality or municipalities in the State, with the United States Government or any of its agencies or departments, with the State of North Carolina or any of its agencies or departments, or may contract with any insurance company or other corporation for the performance of any service in connection with the establishment of such fund, or for the investment, care, or administration of such fund, or for any other service relating thereto. The municipality or any other governing body, agency, insurance company, person, or corporation contracting with the Town for the investment, care or administration of said system may invest and reinvest the funds thereof in one or more of the types of securities or other investments authorized by the General Statutes of North Carolina and by other State law, for the investment of assets of domestic life insurance companies.

"Sec. 11.5. *Supplemental Retirement Plans and Funds.* Nothing in this Charter shall be construed so as to prohibit the Town from providing or continuing to provide Old Age and Survivor's Insurance, or Social Security coverage, for its officers and employees as the same may be authorized by Federal and State law, either separately or in addition to the fund authorized herein or any other retirement or pension fund or plan authorized by general law or local act.

"ARTICLE XII. CLAIMS AGAINST THE TOWN

"Sec. 12.1. *Presentation of Claims; Suit upon Claims.* (a) All claims or demands against the Town of Wake Forest arising in tort or in contract shall be presented to the Board of Commissioners in writing, signed by the claimant, his attorney or agent, within 90 days after the claim or demand is due or the cause of action accrues and such demand shall contain the date, place and brief description for which the demand is made, and no suit or action shall be brought thereon within 30 days or after the expiration of 12 months from the time said claim or demand is so presented. Unless the claim or demand is so presented within 90 days after the cause of action accrues, and unless suit is brought within 12 months thereafter, any action thereon is barred.

(b) No action shall be instituted against the Town for damages to or

compensation for real property taken or used by the Town for any public purpose, or for the ejectment of the Town therefrom, or to remove a cloud upon the title thereof, unless, within two years after such alleged use, the owner, his executor, administrator, guardian, or next friend, shall have given notice in writing to the Board of Commissioners of the claim, stating in the notice the date that the alleged use commenced, a description of property alleged to have been used and the amount of the damage or compensation claimed.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, if a complainant suffers from physical or mental incapacity that renders it impossible for him to give notice, his action shall not be barred if notice of claim is given by him or on his behalf within six months after the termination of his incapacity; provided, that minority shall not of itself constitute physical or mental incapacity. If the complainant is a minor, his action shall not be barred if notice of claim is given on his behalf within three years after the occurrence or the infliction of the injury complained of; if the minor suffers from physical or mental incapacity that renders it impossible for him to give notice, his action shall not be barred if notice of claim is given on his behalf within six months after termination of the incapacity, or within three years after the occurrence or the infliction of the injury complained of, whichever is the longer period. The Town may at any time request the appointment of a next friend to represent any person having a potential claim against the Town and known to be suffering from physical or mental incapacity."

Sec. 2. The purpose of this act is to revise the Charter of the Town of Wake Forest and to consolidate herein certain acts concerning the property, affairs, and government of the Town. It is intended to continue without interruption those provisions of prior acts which are consolidated into this act, so that all rights and liabilities that have accrued are preserved and may be enforced.

Sec. 3. This act shall not be deemed to repeal, modify, or in any manner affect any of the following acts, portions of acts, or amendments thereto, whether or not such acts, portions of acts, or amendments are expressly set forth herein.

(a) Any acts concerning the property, affairs, or government of public schools in the Town of Wake Forest.

(b) Any acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind.

Sec. 4. (a) The following acts or portions of acts, having served the purposes for which they were enacted, or having been consolidated into this act are hereby repealed:

CHAPTER

1

18

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111

116

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36

564

LAWS

Private Laws 1880 (extra
Session)

Public Laws 1887

Private Laws 1887

Private Laws 1909

Private Laws 1909

Private Laws 1915

Private Laws 1924 (extra
Session)

Public Laws 1933

466	Public-Local Laws 1941
465	Session Laws 1951
308	Session Laws 1955
275	Session Laws 1959
1124	Session Laws 1965

(b) The following acts, which have been superseded by application of the Judicial Department Act of 1965 in the County of Wake, are hereby repealed:

CHAPTER**LAWS**

80	Public Laws 1879
755	Public-Local Laws 1915
74	Public-Local Laws 1929
197	Public-Local Laws 1931
288	Public-Local Laws 1931
322	Public-Local Laws 1937
550	Public-Local Laws 1937
557	Public-Local Laws 1939
477	Session Laws 1951
547	Session Laws 1951
1029	Session Laws 1951
194	Session Laws 1961
525	Session Laws 1967

Sec. 5. No provision of this act is intended, nor shall be construed, to affect in any way any rights or interests (whether public or private):

(a) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act;

(b) Derived from, or which might be sustained or preserved in reliance upon action heretofore taken (including the adoption of ordinances or resolutions) pursuant to or within the scope of any provision of law repealed by this act.

Sec. 6. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(a) The repeal herein of any act repealing such law, or

(b) Any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

Sec. 7. (a) All existing ordinances and resolutions of the Town of Wake Forest, and all existing rules or regulations of departments or agencies of the Town of Wake Forest, not inconsistent with provisions of this act, shall continue in full force and effect until repealed, modified or amended.

(b) No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act or against the Town of Wake Forest or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

Sec. 8. Severability. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 9. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 10. This act shall be effective upon its ratification.

In the General Assembly read three times and ratified, this the 26th day of

April, 1973.

H. B. 753**CHAPTER 274**

AN ACT TO INCORPORATE AN AREA BETWEEN THE CENTERLINE OF CATAWBA RIVER AND SOUTH RIGHT-OF-WAY LIMIT BOUNDARY LINE OF KIRKSEY DRIVE IN THE CORPORATE LIMITS OF THE CITY OF MORGANTON.

The General Assembly of North Carolina enacts:

Section 1. From and after the effective date of this act the following described territory contiguous to the present limits of said city is annexed to the City of Morganton, to wit:

BEGINNING at a point in centerline of Catawba River, corner of the present corporate limits of the City of Morganton, this beginning point being 573 feet downstream from N. C. Highway 181, and runs thence downstream and in a Northerly and Easterly direction with the meanders of the centerline of Catawba River to a point in the present corporate limits of Morganton, which point is 2,195 feet upstream from the confluence of Catawba River and Hunting Creek; thence with the present corporate limits line of Morganton in a Southerly direction to a point in the South right-of-way limit boundary line of Kirksey Drive; thence continuing with the present corporate limits line and with the said South right-of-way limit boundary line in a Westerly and Southwesterly direction to a point, corner of the present corporate limits of Morganton at which Kirksey Drive is in close proximity to Catawba River; thence with the present corporate limits line in a Westerly direction to the point of beginning.

Sec. 2. On the date of annexation the City of Morganton shall provide police protection, fire protection, garbage collection and street maintenance services in above described annexed territory on substantially the same basis and in the same manner as such services are provided with the rest of the municipality.

Sec. 3. Property owners in the above territory may secure water and sewer service according to the policies in effect in Morganton for extending water and sewer lines to individual lots or subdivisions.

Sec. 4. From and after the effective date of the annexation ordinance, the territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in such municipality and shall be entitled to the same privileges and benefits as other parts of such municipality. The newly annexed territory shall be subject to municipal taxes levied for the fiscal year following the effective date of annexation.

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of April, 1973.

H. B. 765

CHAPTER 275

AN ACT TO ABOLISH SEPARATE SCHOOL TAX DISTRICTS IN THE AREA OF PITT COUNTY OUTSIDE OF THE GREENVILLE CITY SCHOOL ADMINISTRATIVE UNIT AND TO ESTABLISH ONE PITT COUNTY SCHOOL ADMINISTRATIVE UNIT IN THE AREA FOR ALL PURPOSES AND TO PROVIDE FOR A SUPPLEMENTAL TAX LEVY FOR CURRENT EXPENSES THEREIN.

Whereas, a referendum was submitted to the voters and a favorable vote obtained allowing Pitt County to assume all school indebtedness, including school bond indebtedness; and

Whereas, all of the area outside of the Greenville City School Administrative Unit has been designated by the Pitt County Board of Education and the State Board of Education as a single district for the attendance of pupils in the County Schools; and

Whereas, there only remains in the area outside of the Greenville City School Administrative Unit old districts which voted a supplemental tax levy therein and schools in the area have been consolidated so that the pupils residing in the old school tax districts do not necessarily now attend schools in the old school tax district in which they reside and in which the supplemental tax levies were voted; and

Whereas, the Pitt County Board of Education and the Pitt County Board of Commissioners recognize the need for one administrative unit in the County outside of the Greenville City School Administrative Unit so that there would remain only one administrative unit for all purposes, including attendance of pupils, supplemental tax levies (except for County-wide tax levies), and administration, to the end that each child in the Pitt County Administrative Unit would receive the same financial support from all tax levies in the district; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. That all old supplemental tax levy districts outside of the Greenville City School Administrative Unit be abolished and that there be established one school tax district (except for County-wide tax levies) for the Pitt County School Administrative Unit in the area outside of the Greenville City School Administrative Unit as presently constituted.

Sec. 2. That there be established one school district for all purposes in the area outside of the Greenville City School Administrative Unit as presently constituted, including attendance and enrollment of pupils, school tax levies (except for County-wide tax levies), and the administration of the schools in the area, to be known as the "Pitt County School Administrative Unit".

Sec. 3. That a supplemental tax for current expenses is hereby established in the Pitt County School Administrative Unit to provide for funds to be used to supplement the current expense funds from State and County allotments and to operate schools of a higher standard by supplementing any item of expenditure in the school budget in the maximum amount not to exceed twenty-five cents (25¢) on the one hundred dollar (\$100.00) valuation of property, real and personal, in the district, and the Pitt County School Administrative Unit may file a supplemental budget therefor and request that a sufficient levy be made by the Pitt County Board of Commissioners, the tax levying authority, not in excess of the rate of twenty-five cents (25¢) on the one

hundred dollar (\$100.00) valuation of property, real and personal, in the district, and the Pitt County Board of Commissioners, the tax levying authority, may approve or disapprove this supplemental budget in whole or in part and, if the Pitt County Board of Commissioners, the tax levying authority, approves the supplemental budget request, sufficient taxes shall be levied, if necessary, to provide for the approved budget for supplemental purposes not exceeding the amount of twenty-five cents (25¢) on the one hundred dollar (\$100.00) valuation of all real and personal property within the district.

Sec. 4. This act shall apply only to Pitt County.

Sec. 5. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 26th day of April, 1973.

S. B. 312

CHAPTER 276

AN ACT TO AMEND CHAPTER 623 OF THE SESSION LAWS OF 1971, AFFECTING THE TOWN OF BENSON.

The General Assembly of North Carolina enacts:

Section 1. Section 14.1(a) of Article XIV of Section 1 of Chapter 623 of the Session Laws of 1971 is amended by striking the following portion of the last sentence thereof, "provided, further, that such petition must be presented as herein provided to such Board of Commissioners on or before June 30, 1973;" and by deleting the semicolon after the words "Town Hall" and inserting in lieu thereof a period.

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of April, 1973.

S. B. 358

CHAPTER 277

AN ACT TO AMEND CHAPTER 50, SESSION LAWS OF 1963, SO AS TO AUTHORIZE THE PENDER COUNTY BOARD OF ALCOHOLIC CONTROL TO LEGALLY EXPEND REHABILITATION AND EDUCATION FUNDS WITHIN PENDER COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Section 6 of Chapter 50, Session Laws of 1963, is hereby deleted in its entirety and the following substituted therefor:

"Sec. 6. After deducting fifteen percent (15%) of total net profits to be expended for law enforcement and after providing for expenditure of a sum not less than two per cent (2%) nor more than five per cent (5%) of total future net profits, and current funds, to provide facilities, material for the care, education, rehabilitation, treatment of alcoholic, mental patients, for education of the general public on the excessive use of alcoholic beverages, or distribution to various Pender County Rescue Squads, at intervals and in amounts determined by the Pender County Board of Alcoholic Control, and after further payment to the general fund of Pender County of five per cent (5%) of total net profits for use in mosquito control, the remaining total net profits from Alcoholic Beverage

Control Stores shall, on a quarterly basis, be paid over as follows: Seventy-five per cent (75%) to the general fund of Pender County, and the remaining twenty-five per cent (25%) to the respective municipalities in which Alcoholic Beverage Control Stores are located, based on gross sales of each respective store."

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall be in full force and effect from and after ratification.

In the General Assembly read three times and ratified, this the 27th day of April, 1973.

S. B. 377

CHAPTER 278

AN ACT TO REPEAL SECTION 1-1/2 OF CHAPTER 1232 OF THE 1969 SESSION LAWS, SO AS TO PLACE THE INCORPORATED MUNICIPALITIES IN FRANKLIN COUNTY UNDER THE STATE'S GENERAL ANNEXATION LAWS.

The General Assembly of North Carolina enacts:

Section 1. Section 1-1/2 of Chapter 1232 of the 1969 Session Laws is hereby repealed.

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 27th day of April, 1973.

S. B. 402

CHAPTER 279

AN ACT TO PROVIDE FOR THE SALARY OF THE MEMBERS OF THE COLUMBUS COUNTY BOARD OF SOCIAL SERVICES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 108-14 is hereby amended by adding at the end thereof the following:

"The Board of County Commissioners shall pay the members of the Columbus County Board of Social Services the sum of twenty-five dollars (\$25.00) per day for performing their official duties and responsibilities, and travel expense as provided in G.S. 138-5 for attendance at official meetings and conferences."

Sec. 2. This act shall apply only to Columbus County.

Sec. 3. This act is effective July 1, 1973.

In the General Assembly read three times and ratified, this the 27th day of April, 1973.

S. B. 450

CHAPTER 280

AN ACT TO AUTHORIZE THE CITY OF GOLDSBORO TO CONVEY WITHOUT CONSIDERATION CERTAIN REAL PROPERTY TO THE OLD WAYNESBOROUGH COMMISSION.

Whereas, the Old Waynesborough Commission is a nonprofit corporation organized under laws of the State of North Carolina for the purpose of restoring the site of the former Town of Waynesborough, located on the banks of the Neuse River just to the southwest of the City of Goldsboro, which town gave Goldsboro the County Seat as well as many of its early homes and citizens, and in connection with such restoration, to promote and provide historical and recreational facilities that would be of great value to the citizens of Goldsboro, Wayne County, and the surrounding area; and

Whereas, in order to carry out such program it is necessary to acquire approximately 32.14 acres of land along the banks of the Neuse River and belonging to the City of Goldsboro; and

Whereas, the Board of Aldermen of the City of Goldsboro has, after due study and deliberation, found and determined that the said 32.14 acres of land is no longer required or needed for any municipal purpose and is surplus city property; and

Whereas, the Board of Aldermen of the City of Goldsboro is of the opinion and has so determined that the best interest of the City of Goldsboro and its citizens will be served by conveying said 32.14 acres of land, without consideration, to the Old Waynesborough Commission in order to assist this nonprofit corporation in instituting and carrying on its historic preservation and recreational program with resultant benefits to the citizens of Goldsboro, Wayne County, and surrounding area; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The Board of Aldermen of the City of Goldsboro is hereby authorized to convey without consideration to the Old Waynesborough Commission that certain tract of land described as follows:

BEGINNING at an iron stake in the southern property line of City of Goldsboro landfill site; said stake being in the centerline of drainage ditch along Hargrove property line, and at a point where the ditch enters the Neuse River; thence along said ditch N. 55° 28' E. 192.28 ft. to a point; thence N. 64° 08' E. 103.00 ft. to a point in the centerline of said ditch; thence N. 7° 43' E. 736.00 ft. to a point in Old Waynesboro Road; thence N. 37° 56' W. 480 ft. to a point; thence N. 90° 00' W. 992.00 ft. to a point on the bank of the Neuse River; thence along the bank of Neuse River, S. 5° 52' W. 216.00 ft.; S. 26° 45' W. 200 ft.; S. 33° 44' W. 216.15 ft.; S. 28° 26' W. 111.21 ft.; S. 49° 27' W. 133.15 ft.; S. 16° 41' W. 176.35 ft.; S. 26° 04' E. 228.85 ft.; S. 69° 44' E. 213.80 ft.; N. 80° 01' E. 152.15 ft.; N. 59° 01' E. 169.80 ft.; N. 47° 24' E. 327.98 ft.; N. 46° 09' E. 207.37 ft.; N. 77° 03' E. 227.39 ft.; S. 60° 43' E. 227.90 ft.; S. 16° 27' E. 169.51 ft.; S. 16° 05' W. 97.32 ft.; S. 30° 04' E. 70.54 ft.; S. 30° 04' W. 183.26 ft. to the point of beginning and containing 32.14 acres and being the Southwest portion of City of Goldsboro landfill site.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of April, 1973.

S. B. 469

CHAPTER 281

AN ACT TO AMEND CHAPTER 209 OF THE 1963 SESSION LAWS AUTHORIZING THE CITY OF HIGH POINT TO APPROPRIATE AND EXPEND FUNDS FOR ADVERTISING AND PROMOTING THE CITY OF HIGH POINT.

The General Assembly of North Carolina enacts:

Section 1. That Section 1 of Chapter 209 of the 1963 Session Laws be and the same is hereby amended by striking therefrom the words and figure "two thousand five hundred dollars (\$2,500)" and inserting in lieu thereof the words and figure "ten thousand dollars (\$10,000)".

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 27th day of April, 1973.

S. B. 491

CHAPTER 282

AN ACT TO AMEND CHAPTER 496 OF THE 1955 SESSION LAWS, AS AMENDED, RELATING TO THE PENSION FUND FOR THE RETIREMENT AND DISABILITY OF MEMBERS OF THE POLICE DEPARTMENT OF THE CITY OF HIGH POINT.

The General Assembly of North Carolina enacts:

Section 1. That Section 1 (c) of Chapter 496 of the 1955 Session Laws, as amended by Chapter 761 of the 1971 Session Laws, relating to the Pension Fund Plan for the retirement and disability of members of the Police Department of the City of High Point be and the same is hereby amended to read as follows:

"c. The City Treasurer of the City of High Point is hereby authorized, empowered and directed to deduct each month from the second pay check of each and every member of the Police Department coming under the provisions of this act, beginning July 1, 1971, five percent (5%) of the monthly salary of each of said persons up to five thousand six hundred dollars (\$5,600) per annum, and six percent (6%) per annum of the monthly salary of each of said persons over five thousand six hundred dollars (\$5,600) per annum, provided that the determination of said deductions shall at all times conform to the provisions of the North Carolina Local Governmental Employees Retirement System as it may be amended from time to time. The City of High Point shall contribute to the said pension fund a percentage of the covered pay roll of the Police Department as determined on the basis of an annual actuarial valuation, provided that such percentage shall not be less than the normal rate of contribution nor more than the total percentage rate of contribution (both exclusive of the death benefits percentage) payable by the City of High Point to the North Carolina Local Governmental Employees Retirement System for the same period of account of said employees covered therein."

Sec. 2. That Section 3 of Chapter 496 of the 1955 Session Laws of the

State of North Carolina as amended by Chapter 761 of the 1971 Session Laws be and the same is hereby amended to read as follows:

“Sec. 3. Any person who is a full time member of the High Point Police Department as shown by the records of the City of High Point at the time of the ratification of this act, or who becomes a full time paid member thereof after the ratification of this act, shall, upon his termination from service, be entitled to receive benefits equal to those he would have received based upon his eligibility under the provisions of Chapter 128 of the General Statutes governing the North Carolina Local Governmental Employees Retirement System, as amended from time to time, had he been a member of that retirement system, exclusive of an employer providing lump sum death benefit. Post retirement benefit increases shall not apply to members retired prior to the ratification of this act except at the discretion of the Board of Examiners.”

Sec. 3. That Section 5 of Chapter 496 of the 1955 Session Laws, as amended by Chapter 761 of the 1971 Session Laws, is hereby deleted.

Sec. 4. That Section 6 of Chapter 496 of the 1955 Session Laws as amended by Chapter 761 of the 1971 Session Laws is hereby renumbered as Section 5.

Sec. 5. That Section 7 of the 1955 Session Laws as amended by Chapter 133 of the 1959 Session Laws be and it is hereby renumbered as Section 6.

Sec. 6. That Sections 8, 9 and 10 of the 1955 Session Laws be and they are hereby renumbered respectively as Sections 7, 8 and 9.

Sec. 7. That all laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 8. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 27th day of April, 1973.

S. B. 526

CHAPTER 283

AN ACT TO INCLUDE FORSYTH COUNTY WITHIN THE PROVISIONS OF G.S. 47-17.1 REGARDING DESIGNATING DRAFTSMEN ON DOCUMENTS FILED IN THE REGISTER OF DEEDS OFFICE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 47-17.1, as the same appears in the 1971 Cumulative Supplement to the 1966 Replacement Volume 2A of the General Statutes, is hereby amended by adding “Forsyth” to the list of counties contained therein.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of April, 1973.

S. B. 563

CHAPTER 284

AN ACT TO AMEND CHAPTER 455 OF THE SESSION LAWS OF 1947
TO PROVIDE FOR THE ELECTION OF THE ELKIN CITY SCHOOL
ADMINISTRATIVE UNIT BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. Sections 1, 2, and 3 of Chapter 455 of the Session Laws of 1947 are hereby amended by striking the words "Board of Trustees" wherever they appear and inserting in their place the words "Board of Education".

Sec. 2. Section 3 of Chapter 455 of the Session Laws of 1947 is further amended by adding at the end thereof the following: "Three members shall be residents of the City of Elkin and shall be elected at large by the qualified voters of the Elkin School District. One member shall be elected by the qualified voters of the Elkin School District from the area within the Elkin School District to the east of Interstate Highway 77 and outside the corporate limits of the City of Elkin. One member shall be elected by the qualified voters of the Elkin School District from the area within the Elkin School District to the west of Interstate Highway 77 and outside the corporate limits of the City of Elkin."

Sec. 3. Section 4 of the Session Laws of 1947 is hereby rewritten to read as follows: "The members of the Board of Education shall be elected on a nonpartisan plurality basis in even-numbered years on the same day that regular county elections are held. Except as hereinafter provided, the terms of the members shall be four years. In the 1974 election and quadrennially thereafter, three members who are residents of the City of Elkin shall be elected for terms of four years. In the 1974 election, two members from outside the corporate limits of the City of Elkin as hereinbefore provided for shall be elected for terms of two years each. In the 1976 election and quadrennially thereafter, two members from outside the corporate limits of the City of Elkin as hereinbefore provided for shall be elected for terms of four years each. At the first meeting of the Board of Education following the election of Board members, a chairman shall be chosen by and from the membership of the Board. In case of absence or disability of the chairman, an acting chairman shall be chosen by and from the membership of the Board. Any vacancy occurring in the membership of said Board of Education for any reason shall be filled by majority vote of the remaining members of the Board within 30 days after such vacancy occurs."

Sec. 4. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 5. This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of April, 1973.

S. B. 660

CHAPTER 285

AN ACT TO FIX THE SALARIES OF THE CHAIRMAN AND MEMBERS OF THE ALEXANDER COUNTY BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115-29 is hereby amended by adding at the end of the first paragraph thereof:

“Provided that the Alexander County Board of Education may fix the compensation for the Chairman and members of the Board not to exceed twenty dollars (\$20.00) per diem and ten cents (10¢) per mile for each mile traveled in going to and from meetings of the Board.”

Sec. 2. All laws and clauses of laws in conflict herewith are repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of April, 1973.

S. B. 673

CHAPTER 286

AN ACT TO AUTHORIZE THE ESTABLISHMENT OF THE ROXBORO-PERSON CHARTER COMMISSION AND PROVIDE FOR A REFERENDUM ON THE CONSOLIDATION OF THE GOVERNMENTS OF THE CITY OF ROXBORO AND PERSON COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Establishment authorized. The governing bodies of the City of Roxboro and Person County may by concurrent resolutions establish a charter commission and may appropriate for the support of the commission any revenues not otherwise limited as to use by law.

Sec. 2. Purposes. The charter commission created pursuant to this act may be charged with any of the following purposes:

(1) To study the powers, duties, functions, responsibilities, and organizational structures of the county and city and of other units of local government and public agencies within the county and the city;

(2) To prepare a report on its studies and findings;

(3) To prepare a plan for consolidating one or more functions and services of the county and the city;

(4) To prepare drafts of any agreements or legislation necessary to effect the consolidation of one or more functions and services;

(5) To prepare a plan for consolidating into a single government the governments of the county and the city;

(6) To prepare drafts of any legislation necessary to effect the plan of governmental consolidation;

(7) To call a referendum, as provided in Section 5 of this act, on the plan of governmental consolidation.

Sec. 3. Content of concurrent resolutions. The concurrent resolutions establishing the commission shall:

(1) Set forth the purposes that are to be vested in the commission;

(2) Determine the composition of the commission, the manner of appointment of its members, and the manner of selection of its officers;

(3) Determine the compensation, if any, to be paid to commission members;

(4) Provide for the organizational meeting of the commission;

- (5) Set out the method for determining the financial support that will be given to the commission by the governments of the county and the city;
- (6) Set forth the date by which the commission is to complete its work;
- (7) Set forth any other directions or limitations considered necessary.

Sec. 4. Powers of the commission. The Roxboro-Person Charter Commission established pursuant to this act may:

- (1) Adopt rules and regulations for the conduct of its business;
- (2) Apply for, accept, receive, and disburse funds, grants, and services made available to it by the State of North Carolina or any agency thereof, the federal government or any agency thereof, any unit of local government, or any private or civic agency;
- (3) Employ personnel;
- (4) Contract with consultants;
- (5) Hold hearings in the furtherance of its business;
- (6) Take any other action necessary or expedient to the furtherance of its business.

Sec. 5. Referendum; General Assembly action. If authorized to do so by the concurrent resolutions that established it, the Roxboro-Person Charter Commission may call a countywide referendum on its proposed plan of governmental consolidation. The referendum shall be conducted by the Person County Board of Elections and the expense of the election shall be met by Person County. The referendum may be held on the same day as any other referendum or election in the county, but may not otherwise be held during the period beginning 30 days before and ending 30 days after the day of any other referendum or election to be conducted by the Person County Board of Elections. The proposition submitted to the voters shall be substantially in the following form:

- ☐ For the consolidation of the City of Roxboro with the County of Person.
- ☐ Against the consolidation of the City of Roxboro with the County of Person.

No new and consolidated government shall become effective until approved by a majority of those voting in the countywide referendum and until its charter is enacted into law by the General Assembly of North Carolina.

Sec. 6. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of April, 1973.

H. B. 153

CHAPTER 287

AN ACT TO AMEND G.S. 105-141(b) TO EXEMPT FROM TAXATION CERTAIN RETIREMENT BENEFITS RECEIVED BY RETIRED ARMED FORCES PERSONNEL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-141(b)(18) is hereby amended by rewriting the same to read as follows:

“(18) Any amount, not to exceed three thousand dollars (\$3,000) received by

a taxpayer during any year as retired or retainer pay as a result of service in any of the Armed Forces of the United States.”

Sec. 2. This act shall become effective with respect to income years beginning on and after January 1, 1973.

In the General Assembly read three times and ratified, this the 27th day of April, 1973.

S. B. 508

CHAPTER 288

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF FAIRMONT AND TO REPEAL PRIOR CHARTER ACTS.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Fairmont is hereby revised and consolidated to read as follows:

“THE CHARTER OF THE TOWN OF FAIRMONT

“ARTICLE I. INCORPORATION AND CORPORATE POWERS

“Section 1.1. *Incorporation and General Powers.* The Town of Fairmont shall continue to be a body politic and corporate under the name and style of the ‘Town of Fairmont’, and shall continue to be vested with all property and rights which now belong to the Town; shall have perpetual succession; may have a common seal and alter and renew the same at pleasure; may sue and be sued; may contract, may acquire and hold all such property, real and personal, as may be devised, bequeathed, sold or in any manner conveyed or dedicated to it, or otherwise acquired by it, and may from time to time hold or invest, sell, or dispose of the same; and shall have and may exercise in conformity with this Charter all municipal powers, functions, rights, privileges, and immunities of every name and nature.

“Section 1.2. *Exercise of Powers.* All powers, functions, rights, privileges, and immunities of the Town, its officers, agencies, or employees, shall be carried into execution as provided by this Charter, or, if this Charter makes no provision, as provided by ordinance or resolution of the Board of Commissioners and as provided by the general laws of North Carolina pertaining to municipal corporations, including Chapter 160 and 160A of the General Statutes of North Carolina.

“Section 1.3. *Enumerated Powers not Exclusive.* The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive but, in addition to the powers enumerated herein or implied hereby, or those appropriate to the exercise of such powers, the Town of Fairmont shall have and may exercise all powers which are granted to municipal corporations by the general laws of North Carolina and all powers which, under the Constitution of North Carolina, it would be competent for this Charter specifically to enumerate.

“Section 1.4. *Form of Government.* The form of government of the Town of Fairmont shall be the Council-Manager form.

“ARTICLE II. CORPORATE BOUNDARIES

“Section 2.1. *Existing Corporate Boundaries.* The corporate boundaries of the Town of Fairmont as of the date of the ratification of this act are as follows:

BEGINNING at a stake, the original Southwestern corner of the town of Fairmont, and running thence along the Western line of said town, due North about 1350 ft. to a stake at the intersection of said Western line and the center

of a ditch that forms the Southern property line of Roscoe Barnes; thence along the center of said ditch, South 81 degrees 32 minutes West about 212 ft. to a bend in said ditch; thence continuing as said ditch and crossing paved secondary road No. 2442 (Pittman St. Ext.) about 325 ft. to a stake in the Western right-of-way (30 ft. from center) of the above mentioned secondary road No. 2442; thence along said right-of-way South 49 degrees 10 minutes West about 800 ft. to a stake in said right-of-way at its intersection with the Southwestern line of a new street leading into the parking lot on the Northern side of South Robeson Knitting Mills, Inc.; thence North 43 degrees West 284.0 ft. to a stake; thence South 52 degrees 49 minutes West 400 ft. to a stake in the Northeastern right-of-way (30 ft. from center) of a street leading from paved secondary road No. 2442 into the parking lot on the Southwestern side of South Robeson Knitting Mills, Inc.; thence along said Northeastern right-of-way, South 43 degrees 00 min. East 300.0 ft. to a stake in said right-of-way at its intersection with the Northwestern right-of-way line (30 ft. from center) of paved secondary road No. 2442; thence crossing said street and along the Northwestern right-of-way line of said paved secondary road No. 2442, South 49 degrees 10 minutes West 60.0 ft. to a stake in said right-of-way at its intersection with the Southwestern right-of-way (30 ft. from center) of the above mentioned street, the Northeastern corner of Davis Park Subdivision; thence along the Northeastern line of said subdivision and as the Southwestern line of said street and beyond, North 43 degrees West 1257.0 ft. to a stake in the run of Pittman Mill Branch; thence as the run of Pittman Mill Branch in a Northeasterly direction about 1000 ft. to a stake in the run of said branch, the most Northern corner of tract No. 3-B of the Rosa P. Davis Estate Lands, as shown on a map recorded in map book 12 at page 111; thence along the Northeast line of said tract No. 3-B, South 56 degrees 30 minutes East 530.0 ft. to a stake; thence South 28 degrees 30 minutes West 361 ft. to a stake, a corner of a 3.2 acre tract conveyed by W. C. Floyd to Maurice Bodienstien; thence as the Bodienstien line, South 70 degrees East 74 ft. to a stake, thence continuing as said line, North 70 degrees East 75 ft. to a stake; thence continuing as said line, South 84 degrees 30 minutes East 273 ft. to another stake in said line, a new corner, said stake being North 84 degrees 30 minutes West 150 ft. from the Western right-of-way line of paved secondary road No. 2442 (Pittman Street Ext.); thence a line parallel to the Western right-of-way line of Pittman Street Ext., North 49 degrees 10 minutes East, about 1000 ft. to a stake in the original Western line of the town of Fairmont; thence due North about 1000 ft. to a stake in said original Western line; thence North 60 degrees 28 minutes West about 350 ft. to a stake, the most Western corner of lot No. 6-A as shown on a map of the division of Rosa P. Davis Estate Lands, recorded in map book 12 at page 111; thence along the Northwestern line of said lot, North 29 degrees 32 minutes East, 150 ft. to a stake in the Southwestern right-of-way (20 ft. from center) of Church Street, the most Northern corner of lot No. 6-A; thence along the Southwestern right-of-way of Church Street, South 60 degrees 28 minutes East about 200 ft. to a stake in said right-of-way at its intersection with the original Western line of the town of Fairmont; thence along said original line due North about 3070 ft. to a stake in a field, the Northwestern corner of the 1913 Annexation of the town of Fairmont; thence as the Northern line of said 1913 Annexation due East about 400 ft. to a stake in said line at its intersection with the Western line of lot No. 95 of Plaza Heights Subdivision; thence along the Western line of lot No. 95 and

beyond North 4 degrees 15 minutes West about 515 ft. to a stake in the Southern right-of-way (30 ft. from center) of the Marion Stage Road; thence along said right-of-way South 51 degrees 35 minutes West about 10 ft. to a stake in said right-of-way that is South 38 degrees East 60 ft. from the South corner of a lot owned by the People's Investment Company; thence crossing said Marion Stage Road North 38 degrees 00 minutes West 535.00 ft. to a stake, the Western corner of said People's Investment Company, Inc. lot; thence along the Northern line of said lot North 77 degrees 45 minutes East 225.0 ft. to a stake, the North corner of said lot; thence as the East line of said lot, South 38 degrees 00 minutes East 380.0 ft. to a stake in the Northern right-of-way (30 ft. from center) of the Marion Stage Road; thence along said Northern right-of-way North 51 degrees 28 minutes East 479.44 ft. to a point opposite the dividing line between lots 63 and 64 of the Beaufort County Lumber Co. Subdivision; thence crossing said Marion Stage Road, South 37 degrees 35 minutes East 167.71 ft. to a corner of lots 62, 63, and 64 of said subdivision; thence along the Eastern line of said subdivision South 2 degrees 12 minutes East 722.65 ft. to the Northern line, 4th corner of the William Gaddy lot; thence as the Northern line of said lot crossing Linden Ave. about East 127.03 ft. to the Eastern line of Linden Ave.; thence as the Eastern line of said Linden Ave., South 0 degrees 56 minutes East 130.03 ft. to a stake in the Eastern line of Linden Ave. at its intersection with the Northern line of the 1913 Annexation of the town of Fairmont; thence along said Northern line due East, about 900 ft. to a stake in said line at its intersection with the Western edge of North Main Street; thence along the Western edge of North Main Street in a Northwesterly direction about 250 ft. to a stake; thence in an Easterly direction to, with, and beyond the Northern line of Lewis Street as shown on a recorded map of the Jackson Brothers Lumber Company Property, about 965 ft. to a stake at the intersection of a line running in a Northeasterly direction parallel with the Lumberton-Fairmont Road from the intersection of the North line of the 1913 Annexation and New Market Street Extended; thence in a Northeasterly direction parallel to the Lumberton-Fairmont Road (N. C. Highway 41) about 950 ft. to a stake at the intersection of a line running parallel to and about 20 ft. Northeast of the Northeast wall of the Twin State Liberty Warehouse; thence in a Southeasterly direction parallel to and about 20 ft. Northeast of the Northeast wall of said Warehouse about 600 ft. to a stake at the intersection of the Eastern line of the Lumberton-Fairmont Road (N. C. Highway 41); thence along the Eastern line of said Lumberton-Fairmont Road North 20 degrees 20 minutes East about 216 ft. to a stake in the Eastern line of said road, the most Northern corner of that certain lot now owned by M.L.P., Inc.; thence along the Northern line of said lot in a Southeasterly direction approximately 358.6 ft. to the run of Oldfield Swamp; thence down the various courses of the run of said swamp, in a Southern direction and about 1220 ft. to a stake in the run of said swamp at the intersection of the Northern line of the 1913 Annexation of the town of Fairmont; thence along said line due East about 900 ft. to a stake, the Northeast corner of the 1913 Annexation of the town of Fairmont; thence along the Eastern line of said town due South 5900 ft. to a stake; thence due East 700 ft. to a stake; thence in a Southeasterly direction about 400 ft. to a stake, the Northwest corner of lot No. 1 surveyed for William A. Hayes by T. P. Henson, Registered Surveyor, dated Jan. 1960 and recorded in map book 13 at page 31, in the office of the Register of Deeds of Robeson County; thence along the

Northern line of said lot South 80 degrees 13 minutes East 503.0 ft. to a stake, the Northeast corner of said lot; thence along the Eastern line of said lot and beyond, to, and as the Eastern line of lot No. 2 as shown on said map, South 9 degrees 47 minutes West 415.0 ft. to a stake, the Southeastern corner of said lot No. 2; thence along the Southwestern line of lot No. 2, North 80 degrees 13 minutes West 103.0 ft. to a stake in said line, the Northeastern corner of lot No. 3; thence along the Eastern line of lot No. 3 and beyond, to, and as the Eastern line of lot No. 4, South 9 degrees 47 minutes West 340.0 ft. to a stake, the Southeastern corner of lot No. 4; thence along the Southwestern line of lot No. 4 and beyond crossing Dogwood Street North 80 degrees 13 minutes West 450 ft. to a stake in the Western line of Dogwood Street; thence in a Northerly direction about 400 ft. to a stake, said stake being located 700 ft. due East of the Southeastern corner of the 1901 Annexation of the town of Fairmont; thence due West to and as the Southern line of the original 1901 Annexation of the town of Fairmont about 1800 ft. to a stake in said line at a point 230 ft. East of the Eastern line of Morrow Street; thence in a Southern direction along the Eastern line of the Webster lot about 100 ft. to a stake, the Southeastern corner of the Webster lot; thence along the Southern line of the Webster lot in a Westerly direction 230 ft. to a stake in the Eastern line of Morrow St.; thence along the Eastern line of Morrow St. in a Northerly direction about 100 ft. to a stake in the Eastern line of said St. at its intersection with the Southern line of the original 1901 Annexation of the town of Fairmont; thence along said line due West about 300 ft. to a stake in said line, said stake being located approximately 600 ft. East of Walnut Street Extended; thence South 46 degrees West 788.8 ft. to a stake; thence South 7 degrees 45 minutes West 874 ft. to a stake; thence South 00 degrees 30 minutes West 762 ft. to a stake in the Northern or first line of the Carl T. Britt lot as shown in a deed dated April 7, 1955 and recorded in deed book 11-X at page 283 in the office of the Register of Deeds of Robeson County; thence along the Northern line of the said lot North 84 degrees 30 minutes East about 300 ft. to a railroad T-iron, the most Northern or beginning corner of said Carl T. Britt lot; thence along the Eastern line of Carl T. Britt, William H. Lewis, Beech, Baker, Evanson, and Brady lots, South 14 degrees East about 1033 ft. to a stake, the most Eastern corner of the Brady lot; thence along the Northern line of the W. B. Webster lot South 89 degrees East 507.54 ft. to a stake, the Northeast corner of the Webster lot as described in deed book 12-H at page 323, Robeson County Registry; thence along the Eastern lines of W. B. Webster, Sam Tedder, Gaston Sealey, South 4 degrees 25 min. West about 509.98 ft. to a stake, Southeastern corner of the Gaston Sealey lot; thence along the Southeastern line of said lot, South 71 degrees West 492 ft. to a stake in the Eastern line of South Main Street Extended (N. C. Highway 41) the most Southern corner of the Gaston Sealey lot; thence along the Eastern line of South Main Street Extended, South 24 degrees 35 minutes East about 32 ft. to a stake; thence South 65 degrees 25 minutes West crossing South Main Street Extended to and as the Southeastern right-of-way of Martin Street about 529 ft. to a stake in said right-of-way (30 ft. from center); thence crossing said Martin Street to and as the Eastern line of lots 19 and 18 of block E of Collinswood Subdivision, section 1 as shown on a map recorded in map book 17 at page 48, Robeson County Registry, North 24 degrees 35 minutes West 380.20 ft. to a stake in the Southeastern line of lot 17 of the above mentioned Collinswood Subdivision, the most Northern corner of

lot No. 18; thence along the Southeastern line of lot No. 17, North 65 degrees 25 minutes East 49.0 ft. to a stake, the most Eastern corner of lot No. 17; thence along the Eastern line of said lot and beyond, to and as the Eastern line of lot No. 16, North 28 degrees 02 minutes West 200.37 ft. to a stake, a corner of lot No. 16; thence continuing as the Eastern line of lot No. 16 and beyond, to and as the Eastern line of lot No. 15, North 21 degrees 08 minutes West 200.37 ft. to a stake, a corner of lot No. 15; thence continuing along the Eastern line of lot No. 15, North 24 degrees 35 minutes West 187.0 ft. to a stake, a corner of lots 1, 14, and 15 of the above mentioned Collinswood Subdivision, section 1, block E; thence South 65 degrees 25 minutes West as the Southern line of lots No. 1, 2, 3, 4, 5, 6, 7, and 8 of Collinswood Subdivision to and crossing Alexander Street a total distance of 1002.0 ft. to a stake in the curved Western right-of-way (30 ft. from center) of Alexander Street; thence as the curved Western right-of-way of said Alexander Street in a Northwesterly direction 435.0 ft. to a stake in the Western right-of-way (30 ft. from center) of Alexander Street; thence crossing Alexander Street in a Northeasterly direction along the Northern line of lot No. 7, 8, 9, 10, of block F, Collinswood Subdivision section 1, about 474 ft. to a stake in the Western right-of-way (30 ft. from center) of Redden Street; thence along the Western right-of-way of said street, North 24 degrees 35 minutes West 260.0 ft. to a stake at the intersection of the Western right-of-way (30 ft. from center) of Redden Street with the Northern right-of-way (30 ft. from center) of Woodhue Street; thence North 65 degrees 25 minutes East crossing Redden Street and along the Northern right-of-way line of Woodhue St. about 260 ft. to a stake in the Northern right-of-way (30 ft. from center) of Woodhue St. at its intersection with the Western line of the 1956 Annexation of the town of Fairmont; thence along said line, North 11 degrees 45 minutes West 915.0 ft. to a stake in the old Marion-Leesville Road; thence in a Northerly direction about 300 ft. to a stake, J. K. Bray Southwestern corner; thence in a Northerly direction along the Western line of the J. K. Bray property to and as the Western line of the Frye Warehouse Property, about 398 ft. to a stake, Littlefield's Northwestern corner and in the line of the Fisher Park Subdivision; thence along the Southern line of Fisher Park Subdivision in a Southwesterly direction about 875 ft. to a stake, the most Southern corner of Fisher Park Subdivision; thence along the Western line of said subdivision in a Northerly direction about 1250 ft. to a stake at the intersection of the Western line of said subdivision and the original Southern line of the 1901 Annexation of the town of Fairmont; thence as said Southern line due West, about 1200 feet to the point of beginning.

"Section 2.2. *Extension of Corporate Boundaries.* All extensions of the corporate boundaries shall be governed by the General Statutes of North Carolina.

"ARTICLE III. MAYOR AND BOARD OF COMMISSIONERS

"Section 3.1. *Mayor and Board of Commissioners.* The Town shall be governed by a Mayor and a Board of Commissioners consisting of six members to be elected by the qualified voters of the Town voting at large.

"Section 3.2. *Mayor and Mayor Pro Tempore.* The Mayor shall be the official head of the Town government and shall preside at all meetings of the Board of Commissioners. Where there is an equal division on a question, the Mayor shall determine the matter by his vote, but he shall vote in no other case. The Mayor shall exercise such powers and perform such duties as are or may be conferred

upon him by the general laws of North Carolina, by this Charter, and by the ordinances of the Town. The Board of Commissioners shall choose one of its numbers to act as Mayor Pro Tempore, and he shall perform the duties of the Mayor in the Mayor's absence or disability. The Mayor Pro Tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the Board.

"Section 3.3. *Terms; Qualifications; Vacancies.* (a) The Mayor and members of the Board of Commissioners shall serve for terms of four years and until their successors are elected and qualified. Their terms of office shall begin at the first regular meeting following their election. The present Mayor and Commissioners shall continue to serve the terms to which they have been elected as follows:

Mayor	P. L. Fisher	December 1973
Commissioner	Charlie R. Ashley	December 1973
Commissioner	Frank McCormick	December 1973
Commissioner	Calvin Haggins	December 1973
Commissioner	P. R. Floyd, III	December 1975
Commissioner	William H. Lewis	December 1975
Commissioner	A. Ray Davis	December 1975

(b) No person shall be eligible to be a candidate or be elected as Mayor or as a member of the Board of Commissioners or to serve in such capacity, unless he is a resident and a qualified voter of the Town.

(c) In the event a vacancy occurs in the office of Mayor or Commissioner, the Board of Commissioners shall by majority vote appoint some qualified person to fill the same for the remainder of the unexpired term.

(d) The Mayor and Commissioners shall continue to receive the same compensation they now receive until such time as this may be changed pursuant to the provisions of G.S. 160A-64.

"Section 3.4. *Organization of Board of Commissioners; Oaths of Office.* The Board of Commissioners shall meet and organize for the transaction of business at the first regularly scheduled meeting of the Board following each biennial election. Before entering upon their offices, the Mayor and each Commissioner shall take, subscribe, and have entered upon the minutes of the Board the oath of office prescribed in Article VI, Section 7 of the Constitution of North Carolina.

"Section 3.5. *Meetings of Board.* (a) The Town Board shall fix the time and place for its regular meetings, which shall be as often as once monthly. Special meetings may be held as provided in G.S. 160A-71.

(b) All meetings of the Board shall be open to the public.

"Section 3.6. *Quorum.* A majority of the membership of the Board of Commissioners shall constitute a quorum. The number required for a quorum shall not be affected by vacancies. A member who has withdrawn from a meeting without being excused by majority vote of the remaining members present shall be counted as present for purposes of determining whether or not a quorum is present.

"Section 3.7. *Ordinances and Resolutions.* The adoption, amendment, repeal, pleading, or proving of ordinances shall be in accordance with the applicable provisions of the general laws of North Carolina not inconsistent with this Charter. The yeas and nays shall be taken upon all ordinances and resolutions and entered upon the minutes of the Board. The enacting clauses of all ordinances shall be 'Be it ordained by the Board of Commissioners of the Town

of Fairmont'. All ordinances and resolutions shall take effect upon adoption unless otherwise provided therein.

"ARTICLE IV. ELECTION PROCEDURE

Elections for Mayor and Commissioners for the Town of Fairmont shall be conducted, in all respects, according to the procedures set forth in Article 23, Chapter 163 of the General Statutes of North Carolina.

"ARTICLE V. TOWN MANAGER

"Section 5.1. The Board of Commissioners shall appoint a Town Manager who shall be the administrative head of the Town government responsible for the supervision and administration of all departments. The Town Manager shall be appointed with regard to merit only, and he need not be a resident of the Town at the time of his appointment. He shall hold office during the pleasure of the Board of Commissioners and shall receive such compensation as it shall fix by ordinance.

The Town Manager shall be the administrative head of the Town government and see that within the Town the laws of the State and the ordinances, resolutions and regulations of the Board of Commissioners are faithfully executed. He shall attend all meetings of the Board of Commissioners and recommend for adoption such measures as he shall deem expedient. He shall make reports to the Board of Commissioners from time to time upon the affairs of the Town and keep the Board fully advised of the Town's financial condition and its future financial needs. He shall be responsible for the appointment and removal of all employees of the Town, including Heads of Departments and Superintendents, but not including the Town Attorney. All appointments and removals made by the Town Manager shall be reported to the Board of Commissioners at its next regular meeting.

It shall be the duty of all officers and employees of the Town to perform such duties as may be required of them by the Town Manager under General Regulations of the Board of Commissioners.

The Town Manager shall have the powers and duties set forth in this section of the Charter, those specified in G.S. 160A-148, and such other as may necessarily be implied for him to efficiently perform and carry out the duties of his office.

"ARTICLE VI. ADMINISTRATIVE OFFICERS AND EMPLOYEES

"Section 6.1. *Town Clerk*. The Town Manager may appoint a Town Clerk to keep a journal of the proceedings of the Board of Commissioners and to maintain in a safe place all records and documents pertaining to the affairs of the Town, and to perform such other duties as may be required by law or as the Town Manager may direct.

"Section 6.2. *Town Tax Collector*. The Town Manager may appoint a Tax Collector to collect all taxes, licenses, fees and other moneys belonging to the Town, subject to the provisions of this Charter and the ordinances of the Town, and he shall diligently comply with and enforce all the general laws of North Carolina relating to the collection, sale, and foreclosure of taxes by municipalities.

"Section 6.3. *Town Accountant*. The Town Manager may appoint a Town Accountant to perform the duties of the Accountant as required by the Municipal Fiscal Control Act.

"Section 6.4. *Consolidation of Functions*. The Town Manager may, with the approval of the Board of Commissioners, consolidate any two or more of the

positions of Town Clerk, Town Tax Collector, and Town Accountant, or may assign the functions of any one or more of these positions to the holder or holders of any other of these positions. The Town Manager may also, with the approval of the Board of Commissioners, himself perform all or any part of the functions of any of the named officers, in lieu of appointing other persons to perform the same.

“ARTICLE VII. FINANCE

“Section 7. 1. *Custody of Town Money.* All moneys received by the Town for or in connection with the business of the Town government shall be paid promptly into the Town depository or depositories. Such institutions shall be designated by the Town Board in accordance with such regulations and subject to such requirements as to security for deposits and interest thereon as may be established by the General Statutes of North Carolina. All interest on moneys belonging to the Town shall accrue to the benefit of the Town. All moneys belonging to the Town shall be disbursed only in accordance with the provisions of the Municipal Fiscal Control Act.

“Section 7.2. *Independent Audit.* As soon as practicable after the close of each fiscal year, an independent audit shall be made of all books and accounts of the Town government by a certified public accountant or a qualified public accountant registered under Chapter 93 of the General Statutes of North Carolina, who shall have no personal interest directly or indirectly in the affairs of the Town or of any of its officers. The Board of Commissioners shall select the public accountant, and the results of such audit shall be made available for inspection by any interested citizen of the Town, and may be published if so ordered by the Board of Commissioners.

“ARTICLE VIII. CLAIMS AGAINST THE TOWN

“Section 8.1. *Presentation of Claim; Suit Upon Claims.* (a) All claims or demands against the Town of Fairmont arising in tort or in contract shall be presented to the Board of Commissioners in writing, signed by the claimant, his attorney or agent, within 90 days after the claim or demand is due or the cause of action accrues, and no suit or action shall be brought thereon within 30 days or after the expiration of 12 months from the time said claim or demand is so presented. Unless the claim or demand is so presented within 90 days after the cause of action accrues, and unless suit is brought within 12 months thereafter, any action thereon is barred.

(b) No action shall be instituted against the Town on account of damages to or compensation for real property taken or used by the Town for any public purpose, or for the ejectment of the Town therefrom, or to remove a cloud upon the title thereof, unless, within two years after such alleged use, the owner, his executor, administrator, guardian, or next friend, shall have given notice in writing to the Board of Commissioners of the claim, stating in the notice the date that the alleged use commenced, a description of property alleged to have been used, and the amount of the damage or compensation claimed.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, if a complainant suffers from physical or mental incapacity that renders it impossible for him to give notice, his action shall not be barred if notice of claim is given by him or on his behalf within six months after the termination of his incapacity; provided, that minority shall not of itself constitute physical or mental incapacity. If the complainant is a minor, his action shall not be barred if notice of claim is given on his behalf within three years after the happening or

the infliction of the injury complained of; or, if the minor suffers from physical or mental incapacity that renders it impossible for him to give notice, his action shall not be barred if notice of claim is given on his behalf within six months after termination of the incapacity, or within three years after the happening or the infliction of the injury complained of, whichever is the longer period. The Town may at any time request the appointment of a next friend to represent any person having a potential claim against the Town and known to be suffering from physical or mental incapacity.

"ARTICLE IX.

In exercising the power of eminent domain the Town of Fairmont may, in its discretion, use the procedures set forth in Article 9 of Chapter 136 of the General Statutes, or the procedures of any general law or local act applicable to the Town."

Sec. 2. The purpose of this act is to revise the Charter of the Town of Fairmont and to consolidate herein certain acts concerning the property, affairs, and government of the Town. It is intended to continue without interruption those provisions of prior acts which are consolidated, specifically or by implication, into this act, so that all rights and liabilities that have accrued are preserved and may be enforced.

Sec. 3. This act shall not be deemed to repeal, modify, nor in any manner to affect any of the following acts, portions of acts, or amendments thereto, whether or not such acts, portions of acts, or amendments are expressly set forth herein:

(a) Any acts concerning the property, affairs, or government of public schools in the Town of Fairmont;

(b) Any acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind.

Sec. 4. The following acts or portions of acts, having served the purpose for which enacted, or having been consolidated into this act, are hereby repealed: c. 112, Private Laws of 1899; c. 82, Private Laws of 1901; c. 42, Private Laws of 1907; c. 308, Private Laws of 1913; c. 312, Private Laws of 1913; c. 476, Private Laws of 1913; c. 151, Private Laws of 1915; c. 149, Private Laws of 1919; c. 64, Private Laws of 1921; c. 149, Private Laws of 1929; c. 183, Private Laws of 1929; c. 157, Private - Local Laws of 1931; c. 282, Session Laws of 1943; c. 198, Session Laws of 1947; c. 555, Session Laws of 1947; c. 86, Session Laws of 1949; c. 446, Session Laws of 1949; c. 800, Session Laws of 1949; c. 148, Session Laws of 1951; c. 223, Session Laws of 1953; c. 203, Session Laws of 1955; c. 452, Session Laws of 1957; c. 666, Session Laws of 1957; c. 741, Session Laws of 1957; c. 43, Session Laws of 1963; c. 172, Session Laws of 1965; c. 752, Session Laws of 1967; c. 308, Session Laws of 1969; c. 323, Session Laws of 1969; c. 772, Session Laws of 1969; c. 1007, Session Laws of 1969.

Sec 5. No provision of this act is intended, nor shall be construed, to affect in any way any rights or interests (whether public or private):

(a) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act;

(b) Derived from, or which might be sustained or preserved in reliance upon,

action heretofore taken (including the adoption of ordinances or resolutions) pursuant to or within the scope of any provision of law repealed by this act.

Sec. 6. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(a) The repeal herein of any act repealing such law, or

(b) Any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

Sec. 7. (a) All existing ordinances and resolutions of the Town of Fairmont, and all existing rules or regulations of departments or agencies of the Town of Fairmont, not inconsistent with the provisions of this act, shall continue in full force and effect until repealed, modified or amended.

(b) No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act by or against the Town of Fairmont or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

Sec. 8. Severability. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 9 All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 10. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 1st day of May, 1973.

S. B. 603

CHAPTER 289

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF MADISON AND TO REPEAL PRIOR CHARTER ACTS.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Madison is hereby revised and consolidated to read as follows:

"THE CHARTER OF THE TOWN OF MADISON

"ARTICLE I. INCORPORATION AND CORPORATE POWERS

"Section 1.1. *Incorporation and General Powers.* The Town of Madison shall continue to be a body politic and corporate under the name of the 'Town of Madison', and shall continue to be vested with all property and rights which now belong to the Town; shall have perpetual succession; may have a common seal and alter and renew the same at pleasure; may sue and be sued; may contract, may acquire and hold all such property, real and personal, as may be devised, bequeathed, sold or in any manner conveyed or dedicated to it, or otherwise acquired by it, and may from time to time hold or invest, sell, or dispose of the same; and shall have and may exercise in conformity with this Charter all municipal powers, functions, rights, privileges, and immunities of every name and nature.

"Sec. 1.2. *Exercise of Powers.* All powers, functions, rights, privileges, and immunities of the Town, its officers, agencies, or employees, shall be carried into execution as provided by this Charter, or, if this Charter makes no provision, as

provided by ordinance or resolution of the Board of Aldermen and as provided by the general laws of North Carolina pertaining to municipal corporations.

"Sec. 1.3. *Enumerated Powers Not Exclusive.* The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive but, in addition, to the powers enumerated herein or implied hereby, or those appropriate to the exercise of such powers, the Town of Madison shall have and may exercise all powers which are granted to municipal corporations by the general laws of North Carolina and all powers which, under the Constitution of North Carolina, it would be competent for this Charter specifically to enumerate.

"ARTICLE II. CORPORATE BOUNDARIES

"Sec. 2.1. *Existing Corporate Boundaries.* (a) The corporate limits of the Town of Madison shall be those existing at the time of the ratification of this Charter and as the same may be altered from time to time in accordance with law. The Board of Aldermen shall cause to be prepared a map to be designated 'Map of the Town of Madison Corporate Limits' showing the corporate limits as the same may exist as of the effective date of this Charter. The Board of Aldermen shall also cause to be prepared a written description of the corporate limits as shown on said map to be designated 'Description of Madison Corporate Limits'. Said map and description shall be retained permanently in the office of the Town Clerk as the official map and a description of the corporate limits of the Town. Immediately upon alteration of the corporate limits made pursuant to law from time to time the Board of Aldermen shall cause to be made the appropriate changes and/or additions to said official map and description. Photographic types or other copies of said official map description certified as by law provided for the certification of ordinances shall be admitted in evidence in all courts and shall have the same force and effect as would the official map or description.

(b) The Board of Aldermen shall require the redrawing of the official map and the rewriting of the official description as may from time to time be required. A redrawn map and a rewritten description shall supersede for all purposes the earlier maps and descriptions which are respectively replaced.

"Sec. 2.2. *Extension of Corporate Boundaries.* All extensions of the corporate boundaries shall be governed by the General Statutes of North Carolina.

"ARTICLE III. MAYOR AND BOARD OF ALDERMEN

"Sec. 3.1. *Composition of Board of Aldermen.* The Board of Aldermen shall consist of six members to be elected by the qualified voters of the Town voting at large in the manner provided in Article IV of this Charter.

"Sec. 3.2. *Mayor and Mayor Pro Tempore.* The Mayor shall be elected by and from the qualified voters of the Town voting at large in the manner provided in Article IV of this Charter. The Mayor shall be the official head of the Town government and shall preside at all meetings of the Board of Aldermen. The Mayor shall have a vote upon all measures coming before the Board, but shall have no veto. The Mayor shall exercise such powers and perform such duties as are or may be conferred upon him by the general laws of North Carolina, by this Charter, and by the ordinances of the Town. The Board of Aldermen shall choose one of its number to act as Mayor Pro Tempore, and he shall perform the duties of the Mayor in the Mayor's absence or disability. The Mayor Pro

Tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the Board.

"Sec. 3.3. *Terms; Qualifications; Vacancies.* (a) The members of the Board of Aldermen shall serve for terms of two years, and the Mayor shall also serve for a term of two years, beginning the day and hour of the organizational meeting following their election, as established by ordinance in accordance with this Charter; provided, they shall serve until their successors are elected and qualify.

(b) No person shall be eligible to be a candidate or be elected as Mayor or as a member of the Board of Aldermen or to serve in such capacity, unless he is a resident and a qualified voter of the Town.

(c) In the event a vacancy occurs in the office of Mayor or Alderman, the Board shall by majority vote appoint some qualified person to fill the same for the remainder of the unexpired term.

"Sec. 3.4. *Organization of Board of Aldermen; Oaths of Office.* The Board of Aldermen shall meet and organize for the transaction of business at the first regularly scheduled meeting of the Board following each biennial election. Before entering upon their offices, the Mayor and each alderman shall take, subscribe to and have entered upon the minutes of the Board the following oath of office:

'I, _____, do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office as _____, so help me, God.'

"Sec. 3.5. *Meetings of Board.* (a) The Board of Aldermen shall fix a suitable time and place for its regular meetings, which shall be held at least as often as once monthly.

(b) The Mayor, the Mayor Pro Tempore, or any two members of the Board may at any time call a special Board meeting by signing a written notice stating the time and place of the meeting and the subjects to be considered. The notice shall be delivered to the Mayor and each alderman or left at his usual dwelling place at least six hours before the meeting. Special meetings may be held at any time when the Mayor and all members of the Board are present and consent thereto, or when those not present have signed a written waiver of notice. Only those items of business specified in the notice may be transacted at a special meeting, unless all members are present or have signed a written waiver of notice.

"Sec. 3.6. *Quorum; Votes.* (a) Four (4) members of the Board of Aldermen or three (3) members and the Mayor shall constitute a quorum to do business but a less number may adjourn from time to time and compel the attendance of absent members.

(b) The affirmative votes of four (4) aldermen, or three (3) aldermen and the Mayor, shall be necessary to adopt any ordinance or to authorize the expenditure of money. All other matters voted upon shall be decided by a majority vote of those present.

"Sec. 3.7. *Ordinances and Resolutions.* The adoption, amendment, repeal, pleading, or proving of ordinances shall be in accordance with the applicable provisions of the general laws of North Carolina not inconsistent with this Charter. The ayes and noes shall be taken upon all ordinances and resolutions and entered upon the minutes of the Board. The enacting clause of all ordinances shall be: 'Be it ordained by the Board of Aldermen of the Town of

Madison'. All ordinances and resolutions shall take effect upon adoption unless otherwise provided therein.

"ARTICLE IV. ELECTIONS

"Sec. 4.1. *Regular Municipal Elections.* Regular municipal elections shall be held biennially in odd-numbered years on the day set by general law for municipal elections. In each election, the candidate for Mayor who receives the largest number of votes cast for Mayor shall be declared elected for a term of two years and the six candidates for Alderman who receive the largest number of votes cast for Alderman shall be declared elected for terms of two years.

"Sec. 4.2. *Regulation of Elections.* All Town elections shall be conducted in accordance with the general laws of North Carolina relating to municipal elections.

"ARTICLE V. TOWN MANAGER

"Sec. 5.1. *Appointment; Compensation.* The Board of Aldermen shall appoint an officer whose title shall be Town Manager and who shall be the head of the administrative branch of the Town government. The Town Manager shall be chosen by the Board solely on the basis of his executive and administrative qualifications with special reference to his actual experience in, or knowledge of, accepted practice in respect to the duties of his office as hereinafter prescribed. At the time of his appointment he need not be a resident of the Town, but shall reside therein during his tenure of office. No person elected as Mayor or as a member of the Board shall be eligible for appointment as Town Manager until one year shall have elapsed following the expiration of the term for which he was elected. The Town Manager shall serve at the pleasure of the Board and shall receive such salary as the Board shall fix.

"Sec. 5.2. *Powers and Duties of Town Manager.* The Town Manager shall be the chief administrator of the Town. He shall be responsible to the Board of Aldermen for administering all municipal affairs placed in his charge by them, and shall have the following powers and duties:

(1) He shall appoint and suspend or remove all Town employees, except the Town Attorney and Town Tax Collector in accordance with such general personnel rules, regulations, policies, or ordinances as the Board may adopt.

(2) He shall direct and supervise the administration of all departments, offices, and agencies of the Town, subject to the general direction and control of the Board, except as otherwise provided by law.

(3) He shall attend all meetings of the Board and recommend any measures that he deems expedient.

(4) He shall see that all laws of the State, the Town Charter, and the ordinances, resolutions, and regulations of the Board are faithfully executed within the Town.

(5) He shall prepare and submit the annual budget and capital program to the Board.

(6) He shall annually submit to the Board and make available to the public a complete report on the finances and administrative activities of the Town as of the end of the fiscal year.

(7) He shall make any other reports that the Board may require concerning the operations of the Town departments, offices, and agencies subject to his direction and control.

(8) He shall perform any other duties that may be required or authorized by the Board.

“ARTICLE VI. TOWN ATTORNEY

“Sec. 6.1. *Appointment; Qualifications; Term; Compensation.* The Board of Aldermen may appoint a Town Attorney who shall be an attorney at law licensed to engage in the practice of law in North Carolina and who need not be a resident of the Town during his tenure. The Town Attorney shall serve at the pleasure of the Board and shall receive such compensation as the Board shall determine.

“Sec. 6.2. *Duties of Town Attorney.* It shall be the duty of the Town Attorney to prosecute and defend suits for and against the Town; to advise the Mayor, Board of Aldermen, Town Manager, and other Town officials with respect to the affairs of the Town; to draft all legal documents relating to the affairs of the Town; to draft proposed ordinances when requested to do so; to inspect and pass upon all agreements, contracts, franchises and other instruments with which the Town may be concerned; to attend all meetings of the Board of Aldermen when required by the Board and to perform such other duties as may be required of him by virtue of his position as Town Attorney.

“ARTICLE VII. ADMINISTRATIVE OFFICERS AND EMPLOYEES

“Sec. 7.1. *Town Clerk.* The Town Manager shall appoint a Town Clerk to keep a journal of the proceedings of the Board of Aldermen and to maintain in a safe place all records and documents pertaining to the affairs of the Town, and to perform such other duties as may be required by law or as the Board may direct.

“Sec. 7.2. *Town Tax Collector.* The Board of Aldermen shall appoint a Tax Collector to collect all taxes, licenses, fees and other moneys belonging to the Town, subject to the provisions of this Charter and the ordinances of the Town, and he shall diligently comply with and enforce all the general laws of North Carolina relating to the collection, sale, and foreclosure of taxes by municipalities.

“Sec. 7.3. *Town Finance Officer.* The Town Manager shall appoint a Town Finance Officer to perform the duties of the Finance Officer as required by the Local Government Budget and Fiscal Control Act.

“Sec. 7.4. *Consolidation of Functions.* The Town Manager with approval of the Board of Aldermen may consolidate any two or more of the positions of Town Clerk, Town Tax Collector, and Town Finance Officer, or may assign the functions of any one or more of these positions to the holder or holders of any other of these positions.

“ARTICLE VIII. FINANCE

“Sec. 8.1. *Custody of Town Money.* All moneys received by the Town for or in connection with the business of the Town government shall be paid promptly into the Town depository or depositories. Such institutions shall be designated by the Board of Aldermen in accordance with the regulations and subject to the requirements as to security for deposits and interest thereon as may be established by the General Statutes of North Carolina. All interest on moneys belonging to the Town shall accrue to the benefit of the Town. All moneys belonging to the Town shall be disbursed in accordance with the provisions of the Local Government Budget and Fiscal Control Act.

“Sec. 8.2. *Independent Audit.* As soon as possible after the close of each fiscal year, an independent audit shall be made of all books and accounts of the Town government by a certified public accountant or an accountant certified by the Local Government Commission. The audit shall be secured in accordance with the provisions of the Local Government Budget and Fiscal Control Act.

“ARTICLE IX. TAXATION

“Sec. 9.1. *Additional Remedies for Collection of Privilege License Taxes.* In addition to any other civil or criminal remedy available to enforce the collection of privilege license taxes, the tax collector may employ the remedies of levy upon personal property, attachment and garnishment, in the manner and subject to the limitations provided by general law for the collection of ad valorem property taxes.

“ARTICLE X. JURISDICTION OF POLICE FORCE

“Sec. 10.1. *Jurisdiction.* (a) The jurisdiction of the police force is hereby extended to include all Town-owned property and facilities whether located within or outside the corporate limits, and all members of the police force shall have upon and within such property and facilities all rights, powers and authority as they have within the corporate limits.

(b) All applicable ordinances of the Town shall have full force and effect upon and within all Town-owned property and facilities, whether located within or outside the corporate limits.

“ARTICLE XI. STREET AND SIDEWALK IMPROVEMENTS

“Sec. 11.1. *Street Improvements; Assessment of Costs.* In addition to any authority which is now or may hereafter be granted by general law to the Town for making street improvements the Board of Aldermen is hereby authorized to make street improvements and to assess the cost thereof against abutting property owners in accordance with the provisions of this Article.

“Sec. 11.2. *When Petition Unnecessary.* The Board of Aldermen may order street improvements and assess the cost thereof, exclusive of the costs incurred at street intersections, against the abutting property owners, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A (or any successor or revision thereto) of the North Carolina General Statutes, without the necessity of a petition, upon the finding by the Council as a fact:

(a) That the street improvement project does not exceed 3,000 linear feet, and

(b) That such street or part thereof is unsafe for vehicular traffic and it is in the public interest to make such improvement, or

(c) That it is in the public interest to connect two streets, or portions of a street already improved, or

(d) That it is in the public interest to widen a street, or part thereof, which is already improved; provided, that assessments for widening any street or portion of street without a petition shall be limited to the cost of widening and otherwise improving such street in accordance with the street classification and improvement standards established by the Town's thoroughfare or major street plan for the particular street or part thereof to be widened and improved under the authority granted by this Article.

“Sec. 11.3. *Street Improvement Defined.* For the purpose of this Article, the term ‘street improvement’ shall include grading, regrading, surfacing, resurfacing, widening, paving, repaving, the acquisition of right-of-way, and the construction or reconstruction of curbs, gutters and street drainage facilities.

“Sec. 11.4. *Sidewalks; Assessment of Costs.* In addition to any authority which is now or may hereafter be granted by general law to the Town for making sidewalk improvements, the Board of Aldermen is hereby authorized, without the necessity of a petition, to make or to order to be made sidewalk improvements or repairs according to standards and specifications of the Town,

and to assess the total cost thereof against abutting property owners, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A (or any successor or revision thereto) of the North Carolina General Statutes; provided, however, that regardless of the assessment basis or bases employed, the Board may order the cost of sidewalk improvements made only on one side of a street to be assessed against property owners abutting both sides of such street.

"Sec. 11.5. *Assessment Procedure.* In ordering street and sidewalk improvements without a petition and assessing the cost thereof under authority of this Article, the Board shall comply with the procedure provided by Article 10, Chapter 160A (or any successor or revision thereto) of the General Statutes, except those provisions relating to the petition of property owners and the sufficiency thereof.

"Sec. 11.6. *Effect of Assessments.* The effect of the act of levying assessments under the authority of this Article shall for all purposes be the same as if the assessments were levied under authority of Article 10 of Chapter 160A (or any successor or revision thereto) of the General Statutes.

"Sec. 11.7. *Acceptance of Conveyance in Satisfaction of Assessments.* The Town Tax Collector or other official or employee of the Town having charge of the collection of special assessments, shall have the right, power, and authority, by and with the approval of the Board of Aldermen first obtained and had, to receive and accept a fee simple conveyance to the Town of any lot or parcel of land in the Town, free and clear of other encumbrances, in full settlement and satisfaction of all street and sidewalk assessments outstanding and unpaid against such property. Such right, power, and authority, however, shall be limited to a conveyance of the whole or the lot or parcel of land against which the particular assessment or assessments involved were levied. No lot or tract of land may be divided and no such right, power, and authority exercised as to a part, only, of the property originally embraced in and covered by said assessment or assessments. In the case of such conveyance, it shall not be necessary that the street or sidewalk assessment or assessments against the property be foreclosed; but the Town, upon the receipt of any such conveyance, shall become and be the absolute fee simple owner of the property, as fully to all intents and purposes as if purchased in and through foreclosure proceedings for the enforcement of such street and sidewalk assessment or assessments.

"ARTICLE XII. SIDEWALK MAINTENANCE

"Sec. 12.1. *Maintenance of Sidewalks.* It shall be the duty of every property owner in the Town to maintain in good repair and to keep clean and free of debris, trash, ice, snow, and other obstacles or impediments the sidewalks abutting his property.

"Sec. 12.2. *Town May Repair or Clean After Notice; Charges a Lien.* The Board of Aldermen may by ordinance establish a procedure whereby Town forces may repair or may clean any sidewalk or remove therefrom any debris, trash, ice, snow, after failure of the abutting property owner after 10 days' notice to do so. In such event, the cost of such repair, or cleaning, or removal, shall become a lien upon the abutting property equal to the lien for ad valorem taxes and may thereafter be collected either by suit in the name of the Town or by foreclosure of the lien in the same manner and subject to the same rules, regulations, costs, and penalties as provided by law for the foreclosure of the lien on real estate for ad valorem taxes.

"ARTICLE XIII. REFUSE, WEEDS, AND TRASH

"Sec. 13.1. *Property Kept Free of Offensive Matter.* It shall be the duty of every property owner in the Town to keep his property free from noxious weeds, trash, and all other forms of offensive animal or vegetable matter or refuse which may be dangerous or prejudicial to the public health or which may constitute a public nuisance.

"Sec. 13.2. *Removal of Offensive Matter; Charges a Lien.* The Board of Aldermen may by ordinance establish a procedure whereby Town forces may clean, cut, and remove any weeds, trash, refuse or other offensive matter from any property upon failure of the owner or occupant after 10 days' notice to do so. In such event, the cost of such cleaning, cutting and removal shall become a lien upon the particular property equal to the lien for ad valorem taxes and may thereafter be collected either by suit in the name of the Town or by foreclosure of the lien in the same manner and subject to the same rules, regulations, costs and penalties as provided by law for the foreclosure of the lien on real property for ad valorem taxes.

"ARTICLE XIV. CLAIMS AGAINST THE TOWN

"Sec. 14.1. *Presentation of Claims; Suit Upon Claims.* (a) All claims or demands against the Town of Madison arising in tort or in contract shall be presented to the Board of Aldermen in writing, signed by the claimant, his attorney or agent, within 90 days after the claim or demand is due or the cause of action accrues, and no suit or action shall be brought thereon within 30 days or after the expiration of 12 months from the time said claim or demand is so presented. Unless the claim or demand is so presented within 90 days after the cause of action accrues, and unless suit is brought within 12 months thereafter, any action thereon is barred.

(b) No action shall be instituted against the Town for damages to or compensation for real property taken or used by the Town for any public purpose, or for the ejectment of the Town therefrom, or to remove a cloud upon the title thereof, unless, within two years after such alleged use, the owner, his executor, administrator, guardian, or next friend, shall have given notice in writing to the Board of Aldermen of the claim stating in the notice the date that the alleged use commenced, a description of property alleged to have been used, and the amount of the damage or compensation claimed.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, if a complainant suffers from physical or mental incapacity that renders it impossible for him to give notice, his action shall not be barred if notice of claim is given by him or on his behalf within six months after the termination of his incapacity; provided, that minority shall not of itself constitute physical or mental incapacity. If the complainant is a minor, his action shall not be barred if notice of claim is given on his behalf within three years after the occurrence of the infliction of the injury complained of; or, if the minor suffers from physical or mental incapacity that renders it impossible for him to give notice, his action shall not be barred if notice of claim is given on his behalf within six months after termination of the incapacity, or within three years after the occurrence of the infliction of the injury complained of, whichever is the longer period. The Town may at any time request the appointment of a next friend to represent any person having a potential claim against the Town and known to be suffering from physical or mental incapacity.

"Sec. 14.2. *Settlement of Claims by Town Manager.* The Town Manager may

settle claims against the Town for (1) personal injuries or damages to property when the amount involved does not exceed the sum of one hundred dollars (\$100.00) and does not exceed the actual loss sustained, including loss of time, medical expenses, and any other expense actually incurred and (2) the taking of small portions of private property which are needed for the rounding of corners at intersections of streets, when the amount involved in any such settlement does not exceed five hundred dollars (\$500.00) and does not exceed the actual loss sustained. Settlement of a claim by the Town Manager pursuant to this section shall constitute a complete release of the Town from any and all damages sustained by the person involved in such settlement in any manner arising out of the accident, occasion, or taking complained of. All such releases shall be approved by the Town Attorney.

"ARTICLE XV. MUNICIPAL RETIREMENT SYSTEM

"Sec. 15.1. The retirement or pension fund which may hereafter be established by the governing body of the Town of Madison under the provisions of this act shall be known, and is hereafter referred to, as Madison Employees' Retirement Fund.

"Sec. 15.2. The governing body of the Town of Madison may establish, by ordinance, a retirement fund which provides for the payment of benefits to employee members of the Madison Employees' Retirement Fund, or to their beneficiaries, in the following cases:

- (1) Retirement because of age,
- (2) Disability,
- (3) Death.

Membership shall include such officers and employees of the Town of Madison as shall be so designated in the ordinance. The Town of Madison shall contribute to the Madison Employees' Retirement Fund in such amounts as shall be stated in the ordinance, in order to meet the liabilities accruing against such fund because of personal service rendered to said Town by such members after the establishment of such fund. Provided, however, that the ordinance may provide benefits which are based, partly or entirely, upon personal services rendered to the Town of Madison prior to the establishment of said fund, and the municipality may contribute the entire cost of benefits based on any such prior service. The expense of administering the fund shall be paid as designated in the ordinance, and the governing body of said Town shall provide and appropriate each year sufficient revenue to cover the expense of the administration."

Sec. 2. The purpose of this act is to revise the Charter of the Town of Madison and to consolidate herein certain acts concerning the property, affairs, and government of the Town. It is intended to continue without interruption those provisions of prior acts which are consolidated into this act, so that all rights and liabilities that have accrued are preserved and may be enforced.

Sec. 3. This act shall not be deemed to repeal, modify, or in any manner affect any of the following acts, portions of acts, or amendments thereto, whether or not such acts, portions of acts, or amendments are expressly set forth herein:

- (a) Any acts concerning the property, affairs, or government of public schools in the Town of Madison.
- (b) Any acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind.

Sec. 4. The following acts or portions of acts, having served the purposes for which they are enacted, or having been consolidated into this act are hereby repealed:

<u>Chapter</u>	<u>Laws</u>
635	Session Laws 1963
492	Session Laws 1971
112	Session Laws 1971

Sec. 5. No provision of this act is intended, nor shall be construed, to affect in any way any rights or interests (whether public or private):

(a) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act;

(b) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken (including the adoption of ordinances or resolutions) pursuant to or within the scope of any provision of law repealed by this act.

Sec. 6. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(a) The repeal herein of any act repealing such law, or

(b) Any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

Sec. 7. (a) All existing ordinances and resolutions of the Town of Madison, and all existing rules or regulations of departments or agencies of the Town of Madison, not inconsistent with the provisions of this act, shall continue in full force and effect until repealed, modified or amended.

(b) No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act by or against the Town of Madison or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

Sec. 8. Severability. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 9. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 10. Regular municipal elections. Regular municipal elections, which will be non-partisan, shall be held biennially in odd-numbered years on the day set by general law for municipal elections. In each election, the candidate for Mayor who receives the largest number of votes cast for Mayor shall be declared elected for a term of two years and the six candidates for Alderman who receive the largest number of votes cast for Alderman shall be declared elected for terms of two years.

Sec. 11. Town may repair or clean after notice; charges a lien. The Board of Aldermen may by ordinance establish a procedure whereby town forces may repair or may clean any sidewalk or remove therefrom any debris, trash, ice, snow, after failure of the abutting property owner to do so. In such event, the cost of such repair, or cleaning, or removal, shall become a lien upon the abutting property equal to the lien for ad valorem taxes and may thereafter be collected either by suit in the name of the town or by foreclosure of the lien in the same manner and subject to the same rules, regulations, costs, and penalties

as provided by law for the foreclosure of the lien on real estate for ad valorem taxes.

Sec. 12. This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of May, 1973.

S. B. 685

CHAPTER 290

AN ACT TO CLASSIFY AND EXCLUDE FROM THE AD VALOREM TAX BASE SPECIAL NUCLEAR MATERIALS IN THE PROCESS OF MANUFACTURE, FABRICATION, PROCESSING, REPROCESSING, OR DELIVERY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-275 is hereby amended by adding thereto a new Subsection (6) at the end thereof, to read as follows:

“(6) Special nuclear materials in any form being held for or in the process of manufacture, fabrication, processing, or reprocessing, and special nuclear materials in any form being held for or in the process of delivery by the manufacturer, fabricator, processor, or reprocessor thereof. The term ‘special nuclear materials’ includes (1) plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235; and (2) any material artificially enriched by any of the foregoing, but not including source material. ‘Source material’ means any material except special nuclear material which contains by weight one-twentieth of one percent (0.05 %) or more of (1) uranium, (2) thorium, or (3) any combination thereof. Provided however, that to qualify for this exemption no such nuclear materials shall be discharged into any river, creek or stream in North Carolina.”

Sec. 2. This act shall be effective on January 1, 1974.

In the General Assembly read three times and ratified, this the 1st day of May, 1973.

H. B. 470

CHAPTER 291

AN ACT TO AMEND G.S. 20-88 TO EQUALIZE THE RATES FOR PROPERTY HAULING VEHICLES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-88(b) is hereby amended by rewriting the Schedule of Weights and Rates appearing therein to read as follows:

“SCHEDULE OF WEIGHTS AND RATES

Rates Per Hundred Pound Gross Weight	
	Farmer
Not over 4,500 pounds	\$0.20
4,501 to 8,500 pounds inclusive	.25
8,501 to 12,500 pounds inclusive	.32
12,501 to 16,500 pounds inclusive	.44
Over 16,500 pounds	.50

Private Hauler Contract Carriers,
Flat Rate Common Carriers and
Exempt for Hire Carriers

Not over 4,500 pounds	\$0.40
4,501 to 8,500 pounds inclusive	.50
8,501 to 12,500 pounds inclusive	.63
12,501 to 16,500 pounds inclusive	.88
Over 16,500 pounds	1.00

Common Carrier of Property (Deposit)

Not over 4,500 pounds	\$0.75
4,501 to 8,750 pounds inclusive	.75
8,501 to 12,500 pounds inclusive	.75
12,501 to 16,500 pounds inclusive	.75
Over 16,500 pounds	.75"

Sec. 2. This act shall become effective January 1, 1974.

In the General Assembly read three times and ratified, this the 1st day of May, 1973.

H. B. 755

CHAPTER 292

AN ACT TO INCORPORATE A PART OF "JAMESTOWN HEIGHTS SUBDIVISION" INTO THE CORPORATE LIMITS OF THE CITY OF MORGANTON.

The General Assembly of North Carolina enacts:

Section 1. From and after the effective date of this act the following described territory contiguous to the present limits of said City is annexed to the City of Morganton, to wit:

BEGINNING at a point in the center of Silver Creek and runs thence North 65° 00' West 26.50 feet to an iron pipe on the Northwest bank of Silver Creek, corner of Lot 43; thence North 28° 50' West 1315.92 feet to a point, corner of Lots 1 and 30; thence South 58° 00' West 200 feet to an iron pin; thence South 60° 20' West 60 feet; thence South 61° 30' West 660 feet to a point in line of Lots 9 and 23; thence South 68° 30' West 440.0 feet to a point, corner of Lots 13 and 14; thence South 83° 17' West 41.7 feet to a point, corner of Lots 14, 16, 17 and 19; thence South 61° 04' West 233 feet to an iron pin in East right of way limit boundary line of Raintree Lane, corner of Lots 16 and 17; thence North 34° 30' West 73.14 feet to a point; thence South 63° 30' West 61 feet to an iron pin in West right of way limit boundary line of Raintree Lane, corner of Lots 103 and 104; thence South 63° 30' West 202 feet to an iron pin, corner of Lots 103 and 104; thence South 27° 58' East with West right of way limit boundary line of said subdivision 1583.05 feet to an iron pin on the North bank of Silver Creek; thence South 27° 58' East 20 feet to the center of Silver Creek; thence in Easterly direction with center line of said creek to the BEGINNING.

For further description see plats recorded Plat Book 5, Pages 146, 147 and 148, Burke Registry, captioned, "Charles D. Owens Co."

Sec. 2. On the date of annexation the City of Morganton shall provide police protection, fire protection, garbage collection and street maintenance services in above described annexed territory on substantially the same basis and

in the same manner as such services are provided for the rest of the municipality.

Sec. 3. Property owners in the above territory may secure water and sewer service according to the policies in effect in Morganton for extending water and sewer lines to individual lots or subdivisions; however the City of Morganton shall have the right to make special assessments against benefited property according to Article 10, Chapter 160A of the General Statutes of North Carolina.

Sec. 4. From and after the effective date of the annexation ordinance, the territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in such municipality and shall be entitled to the same privileges and benefits as other parts of such municipality. The newly annexed territory shall be subject to municipal taxes levied for the fiscal year following the effective date of annexation.

Sec. 5. The effective date of this act is upon ratification.

In the General Assembly read three times and ratified, this the 1st day of May, 1973.

H. B. 779

CHAPTER 293

AN ACT TO AMEND G.S. 106-225.3, RELATING TO THE SALE OF CERTAIN BAKERY PRODUCTS, SO AS TO CORRECT AN ERROR APPEARING THEREIN.

The General Assembly of North Carolina enacts:

Section 1. The second paragraph of G.S. 106-225.3 is rewritten to read as follows: "Therefore, no loaves of white bread, white rolls, or white buns, as defined in Chapter XV, Article 2, Sections 15-6, 15-7, 15-8, 15-9 and 15-10, Bakeries and Bakery Products, of the Rules, Regulations, Definitions and Standards of the North Carolina Department of Agriculture, or white biscuits, which are artificially colored by either natural or synthetic dyes, pigments, or other means, to simulate an appearance of richness associated with use of distinctive quantities of such ingredients as butter or eggs, shall be sold, or delivered, held or offered for sale, whether it is a completely baked, partially baked or unbaked product."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of May, 1973.

H. B. 864

CHAPTER 294

AN ACT TO REPEAL THE NORTH CAROLINA SEED POTATO LAW.

The General Assembly of North Carolina enacts:

Section 1. Chapter 106, Article 31A, of the North Carolina General Statutes, the Seed Potato Law, is hereby repealed.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of May, 1973.

S. B. 342

CHAPTER 295

AN ACT TO PROVIDE FOR THE SAFETY AND HEALTH OF EMPLOYEES IN THE STATE OF NORTH CAROLINA AND TO PROVIDE FOR THE ENFORCEMENT AND ADMINISTRATION OF THIS ACT IN CONFORMITY WITH PLANS ENTERED INTO BETWEEN THE STATE AND THE FEDERAL GOVERNMENT.

The General Assembly of North Carolina enacts:

Section 1. *Short title and legislative purpose.* (a) This act shall be known as the "Occupational Safety and Health Act of North Carolina" and also may be referred to by abbreviations as "OSHANC."

(b) *Legislative findings and purpose:*

(1) The General Assembly finds that the burden of employers and employees of this State resulting from personal injuries and illnesses arising out of work situations is substantial; that the prevention of these injuries and illnesses is an important objective of the government of this State; that the greatest hope of attaining this objective lies in programs of research, education and enforcement, and in the earnest cooperation of the Federal and State governments, employers and employees.

(2) The General Assembly of North Carolina declares it to be its purpose and policy through the exercise of its powers to assure so far as possible every working man and woman in the State of North Carolina safe and healthful working conditions and to preserve our human resources;

(i) by encouraging employers and employees in their effort to reduce the number of occupational safety and health hazards at the place of employment, and to stimulate employers and employees to institute new and to perfect existing programs for providing safe and healthful working conditions;

(ii) by providing that employers and employees have separate but dependent responsibilities and rights with respect to achieving safe and healthful working conditions;

(iii) by authorizing the Commissioner to develop occupational safety and health standards applicable to business giving consideration to the needs of employers and employees and to adopt standards promulgated from time to time by the Secretary of Labor under the Occupational Safety and Health Act of 1970, and by creating a safety and health review board for carrying out adjudicatory functions under this act;

(iv) by building upon advances already made through employer and employee initiative for providing safe and healthful working conditions;

(v) by providing occupational health criteria which will assure insofar as practicable that no employee will suffer diminished health, functional capacity, or life expectancy as a result of his work experience;

(vi) by providing for training programs to increase the number and competence of personnel engaged in the field of occupational safety and health;

(vii) by providing an effective enforcement program which shall include a prohibition against giving advance notice of an inspection and sanctions for any individual violating this prohibition;

(viii) by providing for appropriate reporting procedures with respect to occupational safety and health which procedures will help achieve the objectives

of this act and accurately describe the nature of the occupational safety and health problem;

(ix) by encouraging joint employer - employee efforts to reduce injuries and diseases arising out of employment;

(x) by providing for research in the field of occupational safety and health, by developing innovative methods, techniques, and approaches for dealing with occupational safety and health problems;

(xi) by exploring ways to discover latent diseases, establishing causal connections between diseases and work in environmental conditions, and conducting other research relating to health problems, in recognition of the fact that occupational health standards present problems often different from those involved in occupational safety;

(xii) by authorizing the Commissioner to enter into contracts with the State Board of Health, or any other state or local units, to the end that the Commissioner and the State Board of Health and other state or local units may fully cooperate and carry out the ends and purposes of this act.

(c) The General Assembly of North Carolina appoints and elects the North Carolina Department of Labor as the designated agency to administer the Occupational Safety and Health Act of North Carolina.

Sec. 2. Definitions. In this act, unless the context otherwise requires:

(1) The term "Department" means the Department of Labor of North Carolina.

(2) The term "Commissioner" means the Commissioner of Labor of North Carolina.

(3) The term "Director" means the officer or agent appointed by the Commissioner of Labor for the purpose of assisting in the administration of the Occupational Safety and Health Act of North Carolina.

(4) The term "State" means the State of North Carolina.

(5) The term "person" means one or more individuals, partnerships, associations, corporations, business trusts, legal representatives.

(6) The term "employer" means a person engaged in a business who has employees, including any state or political subdivision of a state, but does not include the employment of domestic workers employed in the place of residence of his or her employer.

(7) The term "Secretary" means the United States Secretary of Labor.

(8) The term "employee" means an employee of an employer who is employed in a business or other capacity of his employer, including any and all business units and agencies owned and/or controlled by the employer.

(9) The term "Classified Service" means a position included in the State Merit System of Personnel Administration subject to the laws, rules and regulations of the State Personnel Board as administered by the State Personnel Director and as set forth in Chapter 126 of the General Statutes, 1971 Cumulative Supplement to Volume 3B.

(10) The term "issue" means an industrial, occupational or hazard grouping.

(11) The term "Federal Act," as referred to in this act, means the Occupational Safety and Health Act of 1970 (Public Law 91 -596, 91st Congress, Act of December 29, 1970, 84 Stat. 1950).

(12) The term "established federal standard" means any operative occupational safety and health standard established by any agency of the United States and presently in effect, or contained in any Act of Congress in force on the

date of enactment of this act, and adopted by the Secretary of Labor under the Occupational Safety and Health Act of 1970.

(13) The term "imminent danger" means any conditions or practices in any place of employment which are such that a danger exists which could reasonably be expected to cause death, or serious physical harm immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided by this act.

(14) The term "Occupational Safety and Health Standards" means a standard which requires conditions, or the adoption or use of one or more practices, means, methods, safety devices, operations or processes reasonably necessary and appropriate to provide safe and healthful employment and places of employment, and shall include all occupational safety and health standards adopted and promulgated by the Secretary which also may be and are adopted by the State of North Carolina under the provisions of this act. This term includes but is not limited to interim federal standards, consensus standards, any proprietary standards or permanent standards, as well as temporary emergency standards which may be adopted by the Secretary, promulgated as provided by the Occupational Safety and Health Act of 1970, and which standards or regulations are published in the Code of Federal Regulations or otherwise properly promulgated under the federal act or any appropriate federal agencies.

(15) The term "board" means the Safety and Health Review Board established under this act.

(16) The term "advisory council" shall mean the advisory council or body established under this act.

(17) The term "days" shall mean a calendar day unless otherwise noted.

(18) A "serious violation" shall be deemed to exist in a place of employment if there is a substantial probability that death or serious physical harm could result from a condition which exists, or from one or more practices, means, methods, operations, or processes which have been adopted or are in use at such place of employment, unless the employer did not know, and could not, with the exercise of reasonable diligence, know of the presence of the violation.

(19) The term "Deputy Commissioner" means the Deputy Commissioner of the North Carolina Department of Labor, who is appointed by the Commissioner to aid and assist the Commissioner in the performance of his duties. The Deputy Commissioner shall exercise such power and authority as delegated to him by the Commissioner.

Sec. 3. Coverage. The provisions of this act or any standard or regulation promulgated pursuant to this act shall apply to all employers and employees except:

(a) the federal government, including its departments, agencies and instrumentalities;

(b) employees whose safety and health are subject to protection under the Atomic Energy Act of 1954, as amended;

(c) employees whose safety and health are subject to protection under the Federal Coal Mine Health and Safety Act of 1969 (30 USC 801) and the Federal Metal and Nonmetallic Mine Safety Act (30 USC 725), or the Federal Railroad Safety Act of 1970 (45 USC 431 - 41);

(d) railroad employees whose safety and health are subject to protection

under the Federal Safety Appliance Act (45 USC 1 - 50), or the Federal Railroad Safety Act of 1970 (45 USC 431 - 41);

(e) employees engaged in all maritime operations;

(f) employees whose employer is within that class and type of employment which does not permit federal funding, on a matching basis, to the State in return for state enforcement of all occupational safety and health issues.

Sec. 4. *Rights and duties of employers.* Rights and duties of employers shall include but are not limited to the following provisions:

(a) each employer shall furnish to each of his employees conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or serious physical harm to his employees;

(b) each employer shall comply with occupational safety and health standards or regulations promulgated pursuant to this act;

(c) each employer shall refrain from any unreasonable restraint on the right of the Commissioner or Director, or their lawfully appointed agents, to inspect the employer's place of business. Each employer shall assist the Commissioner, the Director or the lawful agents of either or both of them, in the performance of their inspection duties by supplying or by making available information, any necessary personnel or necessary inspection aides;

(d) any employer, or association of employers, is entitled to participate in the development of standards by submission of comments on proposed standards, participation in hearings on proposed standards, or by requesting the development of standards on a given issue under Section 6 of this act;

(e) any employer is entitled, under Section 12, to review of any citation issued because of his alleged violation of any standard promulgated under this act, or the length of the abatement period allowed for the correction of an alleged violation;

(f) any employer is entitled, under Section 12, to a review of any penalty in the form of civil damages assessed against him because of his alleged violation of this act;

(g) any employer is entitled, under Section 7, to seek an order granting a variance from any occupational safety or health standard;

(h) any employer is entitled, under Section 27, to protection of his trade secrets and other legally privileged communications.

Sec. 5. *Rights and duties of employees.* Rights and duties of employees shall include but are not limited to the following provisions:

(a) Employees shall comply with occupational safety and health standards and all rules, regulations and orders issued pursuant to this act which are applicable to their own actions and conduct.

(b) Employees and representatives of employees are entitled to participate in the development of standards by submission of comments on proposed standards, participation in hearings on proposed standards, or by requesting the development of standards on a given issue under Section 6 of this act.

(c) Employees shall be notified by their employer of any application for a temporary order granting the employer a variance from any provision of this act or standard or regulation promulgated pursuant to this act.

(d) Employees shall be given the opportunity to participate in any hearing

which concerns an application by their employer for a variance from a standard promulgated under this act.

(e) Any employee who may be adversely affected by a standard or variance issued pursuant to this act may file a petition for review with the Commissioner who shall review the matters set forth and alleged in the petition.

(f) Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by any applicable standard shall have a right to file a petition for review with the Commissioner who shall investigate and pass upon same.

(g) Subject to regulations issued pursuant to this act any employee or authorized representative of employees shall be given the right to request an inspection and to consult with the Commissioner, Director, or their agents, at the time of the physical inspection of any work place as provided by the inspection provision of this act.

(h) No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceeding or inspection under or related to this act or has testified or is about to testify in any such proceeding or because of the exercise by such employee on behalf of himself or others of any right afforded by this act.

(i) Any employee who believes that he has been discharged or otherwise discriminated against by any person in violation of (h) hereinafter mentioned may, within 30 days after such violation occurs, file a complaint with the Commissioner alleging such discrimination. Upon receipt of such complaint, the Commissioner shall cause such investigation to be made as he deems appropriate. If upon such investigation, the Commissioner determines that the provisions of the above subsection have been violated, he shall bring an action against such person in the Superior Court Division of the General Court of Justice in the county wherein the discharge or discrimination occurred. In any such action the Superior Court shall have jurisdiction, for cause shown to restrain violations of paragraph (h) of this section and order all appropriate relief including rehiring or reinstatement of the employee to his former position with back pay.

(j) Within 90 days of the receipt of a complaint filed under subparagraph (i) above the Commissioner shall notify the complainant of his determination.

(k) Any employee or representative of employees who believes that any period of time fixed in the citation given to his employer for correction of a violation is unreasonable has the right to contest such time for correction by filing a written and signed notice within 20 days from the date the citation is posted within the establishment.

(l) Nothing in this or any other provision of this act shall be deemed to authorize or require medical examination, immunization, or treatment for those who object thereto on religious grounds, except where such is necessary for the protection of the health or safety of others.

Sec. 6. Development and promulgation of standards; adoption of federal standards and regulations. (a) All occupational safety and health standards promulgated under the Federal Act by the Secretary, and any modifications, revision, amendments or revocations in accordance with the authority conferred by the Federal Act or any other federal act or agency relating to safety and health and adopted by the Secretary shall in all respects be the rules and regulations of the Commissioner of this State unless the Commissioner shall

make, promulgate and publish an alternative State rule, regulation or standard as effective as the federal requirement and providing safe and healthful employment in places of employment as required by the Federal Act and standards and regulations heretofore referred to and as provided by the Occupational Safety and Health Act of 1970. All standards and regulations promulgated under the Federal Act by the Secretary, and any modifications, revisions, or revocations in accordance with the authority conferred by the Federal Act, or any other federal act or agency relating to safety and health and adopted by the Secretary, shall become effective upon the date the same is filed by the Commissioner in the office of the Secretary of State.

(b) In the event the Commissioner shall develop his own standards and regulations relating to occupational safety and health which he shall consider to be as effective and efficient as any of the federal regulations or standards, then the Commissioner may by regulation promulgate, modify, or revoke any occupational safety or health standard developed by him in the following manner:

(1) Whenever the need or desirability of promulgating a regulation or standard by the Commissioner which serves the objective of this act is indicated by information submitted in writing to the Commissioner by any interested person, employer, employee, or representative of any organization of employers or employees or upon information derived from recognized standards-producing organizations or upon the basis of information developed by the Commissioner or otherwise available to him, he shall determine the scope of issues to be covered by such standard or regulation and the method to be followed in the development of such standard or regulation. If the Commissioner finds it desirable he may request the recommendation of the Advisory Council appointed under this act and shall provide such Advisory Council with any proposals of his own, together with all pertinent factual information developed by technical experts or otherwise available, including the result of research, demonstrations, experiments, and experience. Recommendations of the Advisory Council shall be submitted to the Commissioner within 90 days from the date of the receipt of such request or within such longer or shorter period as may be prescribed by the Commissioner, but in no event for a period which is longer than 270 days.

(2) When the Commissioner wishes to promulgate a regulation or standard in this section, he shall consider any proposed revisions prior to publication of proposed standards and regulations under paragraph (3) of this subsection, and may make revisions appropriate to the effectiveness of the proposed standards and regulations.

(3) The Commissioner shall, following the review provided for in paragraph (2) above, publish a notice that he intends to issue a standard or regulation modifying or revoking an occupational safety or health standard or regulation in one newspaper of general circulation in Asheville, Charlotte, Durham, Greensboro, Raleigh, Wilmington and Winston-Salem, and shall afford interested persons a period of 30 days after publication to submit written data or comments. The notice shall describe the content of the proposed regulation and shall state where copies of the proposed rule, regulation or standard may be obtained.

(4) On or before the last day of the period provided for the submission of written data or comment under paragraph (3) above, any interested person may

file with the Commissioner written objections to the proposed regulation, rule or standard, stating the grounds therefor and requesting a public hearing on such objections. Within 30 days after the last day for filing such objections, the Commissioner shall issue a call for a public hearing on the proposed occupational safety or health rule, regulation or standard to which such objections have been filed. The notice of hearing shall be published in one newspaper of general circulation in Asheville, Charlotte, Durham, Greensboro, Raleigh, Wilmington and Winston-Salem, 30 days prior to the hearing. The notice shall include the date, time, and place of the hearing and shall indicate concisely and accurately the subject matter of the proposed rule, regulation or standard to which objections have been filed. It shall also state where copies of the full text of the proposed rule, regulation or standard may be obtained.

(5) The hearing shall be presided over by the Commissioner or any authorized agent of the department, or he may delegate such presiding to the Director and shall provide reasonable opportunity for reception of opinions, memoranda and advice concerning such proposed regulation, rule or standard by interested persons and organizations.

(6) Within 60 days after the expiration of the period provided for the submission of written data or comments as provided by this section, or within 60 days after the completion of any hearing held under the provision of this section, the Commissioner shall issue a regulation promulgating, modifying, or revoking such occupational safety or health standard, rule or regulation so developed by him, or make a determination that such rule, standard or regulation shall not be issued. In addition, he shall issue a statement of reasons for any changes made from the proposed regulation, rule or standard, or reasons why no regulation, rule or standard was issued. Such regulation, rule or standard may contain a provision delaying its effective date for such period (not in excess of 90 days) as the Commissioner determines may be necessary to insure that affected employers and employees will be informed of the existence of the rule, regulation or standard and of its terms and that employers affected are given an opportunity to familiarize themselves and their employees with the existence of the requirements of the rule, regulation or standard. Notice of such promulgation, modification or revocation, shall be published in the same manner as heretofore provided in this section and as related to the publication of proposed rules, regulations and standards. Copies of the Commissioner's ruling shall be made available without cost to reasonably interested parties.

(7) Upon adoption by the enactment of this act of the occupational safety or health standards, rules or regulations, promulgated under the Federal Act by the Secretary, and modifications, revisions, or revocations in accordance with the authority conferred by the Federal Act or any other federal act or agency relating to safety and health adopted by the Secretary, such rules, regulations and standards may be issued and promulgated without meeting the requirements of publication of proposed regulations, rules or standards and without meeting the requirements of hearings as provided in this section. Notice published in the Federal Register, with reference to proposed change of standards, shall be deemed to be notice to employers and employees with regard to that change. Hearings and the findings of the Secretary of Labor with reference to the proposed change of standards, shall be substituted for the hearing and findings of the Commissioner.

(c) (1) The Commissioner shall provide, without regard to the

forementioned paragraph in this section, for an emergency temporary standard to take immediate effect upon publication of such emergency temporary standard in one newspaper of general circulation in Asheville, Charlotte, Durham, Greensboro, Raleigh, Wilmington and Winston-Salem if he determines (i) that employees are exposed to grave danger from exposure to substances or agents determined to be toxic or physically harmful or from new hazards, and (ii) that such emergency standard is necessary to protect employees from such danger.

- (2) Emergency standards may cover issues not dealt with by statutes or regulations in existence and may displace standards heretofore promulgated.
- (3) Any such emergency temporary standard shall be effective until superseded by a standard promulgated in accordance with the procedures prescribed in paragraph (4) of this subsection.
- (4) Upon publication of such emergency temporary standard, the Commissioner shall commence a proceeding in accordance with Section 6(c) of this act, and the emergency standard as published shall also serve as a proposed regulation for the proceeding. He shall thereupon promulgate a standard under this paragraph no later than six months after publication of the emergency standard as provided in paragraph (1) of this subsection.
- (d) (1) Regulations issued under subsections (b) and (c) of this section shall provide insofar as possible the highest degree of safety and health protection for employees; other considerations shall be the latest available scientific data in the field, the feasibility of the standard, and experience gained under this and other health and safety laws. Whenever practical the standards promulgated shall be expressed in terms of objective criteria and of the performance desired. In promulgating standards dealing with toxic materials or harmful physical agents, the Commissioner, after consultation and recommendations of the State Board of Health, shall set a standard which most adequately assures, to the extent possible, on the basis of the most available evidence that no employee will suffer material impairment of health or functional capacity even if such employee has regular exposure to the hazard dealt with by such standard for the period of his working life.
- (2) Upon adoption of this act, all rules and procedures set forth in Section 6(b)(7) of the Federal Act will be hereinafter adopted and applied.

(e) The Commissioner shall not develop or promulgate State standards, for products distributed or used in interstate commerce, which are different from federal standards for such products unless the promulgation of such State standard, or standards, are required by compelling local conditions and do not unduly burden interstate commerce.

Sec. 7. Variances.

A. Temporary variances. (a) The Commissioner may upon written application by an employer issue an order granting such employer a temporary variance from standards adopted by this act or promulgated by the Commissioner under this act. Any such order shall prescribe the practices, means, methods, operations and processes which the employer must adopt or use while the variance is in effect and state in detail a program for coming into compliance with the standard.

(b) An application for a temporary variance shall contain all information

required as enumerated in 29 CFR 1905.10(b) which is hereby incorporated by reference, as if herein fully set out.

(c) Upon receipt of an application for an order granting a temporary variance, the Commissioner to whom such application is addressed may issue an interim order granting such a temporary variance, for the purpose of permitting time for an orderly consideration of such application. No such interim order may be effective for longer than 180 days.

(d) Such a temporary variance may be granted only after notice to employees and interested parties and opportunity for hearing. The temporary variance may be for a period of no longer than required to achieve compliance or one year, whichever is shorter and may be renewed only once. Application for renewal of a variance must be filed in accordance with provisions in the initial grant of the temporary variance.

(e) An order granting a temporary variance shall be issued only if the employer establishes (1)(i) that he is unable to comply with the standard by the effective date because of unavailability of professional or technical personnel or materials and equipment required or necessary construction or alteration of facilities or technology, (ii) that all available steps have been taken to safeguard his employees against the hazards covered by the standard, and (iii) that he has an effective program for coming into compliance with the standard as quickly as practicable, or (2) that he is engaged in an experimental program as described in subsection C of this section as hereinafter stated.

B. Permanent variances.—(a) Any affected employer may apply to the Commissioner for a rule or order for a permanent variance from a standard promulgated under this section. Affected employees shall be given notice of each such application and an opportunity to participate in a hearing. The Commissioner shall issue such rule or order if he determines on the record, after opportunity for an inspection where appropriate and a hearing, that the proponent of the variance has demonstrated by a preponderance of the evidence that the conditions, practices, means, methods, operations, or processes used or proposed to be used by an employer will provide employment and places of employment to his employees which are as safe and healthful as those which would prevail if he complied with the standard.

(b) The rule or order so issued shall prescribe the conditions the employer must maintain, and the practices, means, methods, operations, and processes which he must adopt and utilize to the extent they differ from the standard in question.

(c) Such a rule or order may be modified or revoked upon application by an employer, employees, or by the Commissioner on his own motion, in the manner prescribed for its issuance under this subsection at any time after six months from its issuance.

C. Experimental variances.—(a) The Commissioner is authorized to grant a variance from any standard or portion thereof whenever he determines that such variance is necessary to permit an employer to participate in an experiment approved by him designed to demonstrate or validate new and improved techniques to safeguard the health or safety of workers.

Sec. 8. Creation of the Office of Director of Occupational Safety and Health. (a) There is hereby created and established in the North Carolina Department of Labor a division to be known as the office of Occupational Safety and Health. The Commissioner shall appoint a Director to administer this

division who shall be subject to the direction and supervision of the Commissioner. The Director shall carry out the responsibilities of the State of North Carolina as prescribed under the Occupational Safety and Health Act of 1970, and any subsequent federal laws or regulations relating to occupational safety and health, and this act, as written, revised or amended by legislative enactment and as delegated or authorized by the Commissioner. The Commissioner shall make and promulgate such rules, amendments, or revisions in rules, as he may deem advisable for the administration of the office, he shall also accept and use the services, facilities, and personnel of any agency of the State or of any subdivision of State government, either as a free service or by reimbursement. The Director shall devote full time to his duties of office and shall not hold any other office. The Director, subject to the approval of the Commissioner shall select a professional staff of qualified and competent employees to assist in the statewide administration of the act. All of the employees referred to herein shall be under the Classified Service, as herein defined in Section 2, subsection 9.

(b) *Duties of the Director.* Subject to the general supervision of the Commissioner and Deputy Commissioner, the Director shall be responsible for the administration and enforcement of all laws, rules and regulations which it is the duty of the Office to administer and enforce. The Director shall have the power, jurisdiction and authority to:

(1) uniformly superintend, enforce and administer applicable occupational safety and health laws of the State of North Carolina;

(2) make or cause to be made all necessary inspections, analyses and research for the purpose of seeing that all laws and rules and regulations which the office has the duty, power and authority to enforce are promptly and effectively carried out;

(3) make all necessary investigations, develop information and reports upon conditions of employee safety and health, and upon all matters relating to the enforcement of this act and all lawful regulations issued thereunder;

(4) report to the Federal Occupational Safety and Health Administration any information which it may require;

(5) recommend to the Commissioner such rules, regulations, standards, or changes in rules, regulations and standards which the Director deems advisable for the prevention of accidents, occupational hazards or the prevention of industrial or occupational diseases;

(6) recommend to the Commissioner that he institute proceedings to remove from his or her position any employee of the Office who accepts any favor, privilege, money, object of value, or property of any kind whatsoever or who shall give prior notice of a compliance inspection of a work place unless authorized under the provisions of this act;

(7) employ experts, consultants or organizations for work related to the Occupational Safety and Health Program of the Office and compensate same with the approval of the Commissioner;

(8) institute hearings, investigations, request the issuance of citations and propose such penalties as he may in his judgment consider necessary to carry out the provisions of this act;

(9) The Commissioner shall have the power and authority to issue all types of notices, citations, cease and desist orders, or any other pleading, form or notice necessary to enforce compliance with this act as hereinafter set forth. The

Commissioner is also empowered and authorized to apply to the courts of the State having jurisdiction for orders or injunctions restraining unlawful acts and practices prohibited by this act or not in compliance with this act and to apply for mandatory injunctions to compel enforcement of the act, and the Commissioner is authorized, and further authorized by and through his agents, to institute criminal actions or proceedings for such violations of the act as are subject to criminal penalties. The Director shall recommend to the Commissioner the imposition and amount of civil penalties provided by this act, and the Commissioner may institute such proceedings as necessary for the enforcement and payment of such civil penalties subject to such review of the board as hereinafter set forth.

(10) The Director may recommend to the Commissioner that any person, firm, corporation or witness be cited for contempt or for punishment as of contempt, and the Commissioner is authorized to enter any order of contempt or as of contempt as he may deem proper and necessary, and any hearing examiner may recommend to the Commissioner that such order or citation for contempt be made.

(11) The Commissioner or the Director, or their authorized agents, shall have the power and authority to issue subpoenas for witnesses and for the production of any and all papers and documents necessary for any hearing or other proceeding and to require the same to be served by the process officers of the State. The Commissioner and the Director may administer any and all oaths that are necessary in the enforcement of this act and may certify as to the authenticity of all records, papers, documents and transcripts under the seal of the Department of Labor.

(12) All orders, citations, cease and desist orders, stop orders, sanctions and contempt orders, civil penalties and the proceedings thereon shall be subject to review by the Board as hereinafter provided, including all assessments for civil penalties.

Sec. 9. Establishment of advisory council. (a) There is hereby established a State Advisory Council on Occupational Safety and Health, consisting of seven members, appointed by the Commissioner, composed of two representatives from management, two representatives from organized labor, and three representatives of the public sector with knowledge of occupational safety and occupational health professions. The Commissioner shall designate one of the members from the public sector as chairman and all members of the State Advisory Council shall be selected insofar as possible upon the basis of their experience and competence in the field of occupational safety and health.

(b) The Council shall advise, consult with, and make recommendations to the Commissioner on matters relating to the administration of this act. The Council shall hold no fewer than two meetings during each calendar year. All meetings of the Advisory Council shall be open to the public and a transcript shall be kept and made available for public inspection.

(c) The Director shall furnish to the Advisory Council such secretarial, clerical and other services as he deems necessary to conduct the business of the Advisory Council. The members of the Advisory Council shall be compensated for reasonable expenses incurred, including necessary time spent in traveling to and from their place of residence within the State to the place of meeting, and mileage and subsistence as allowed to State officials. The members of the

Advisory Council shall be compensated on a per diem basis which shall be fixed by the Governor and the Advisory Budget Commission.

(d) In addition to its other duties, the Advisory Council shall assist the Commissioner in formulating and setting standards under the provisions of this act. For this purpose the Commissioner may appoint persons qualified by experience and affiliation to present the viewpoint of the employers involved, persons similarly qualified to present the viewpoint of the workers involved, and some persons to represent the health and safety agencies of the State. The Commissioner for this purpose may include representatives of professional organizations of technicians or professionals specializing in occupational safety or health. Such persons appointed for temporary purposes may be paid such per diem and expenses of attending meetings as may be fixed by the Commissioner and Advisory Budget Commission.

Sec. 10. *Safety and Health Review Board.* (a) The Safety and Health Review Board is hereby established. The Board shall be composed of three members from among persons who, by reason of training, education or experience, are qualified to carry out the functions of the Board under this act. The Governor shall appoint the members of the board and name one of the members as chairman of the board. The terms of the members of the board shall be six years except that the members of the board first taking office shall serve, as designated by the Governor at the time of appointment, one for a term of two years, one for a term of four years, and the member of the board designated as chairman shall serve for a term of six years. Any vacancy caused by the death, resignation, or removal of a member prior to the expiration of the term for which he was appointed shall be filled by the Governor for the remainder of the unexpired term. The Governor shall fill all vacancies occurring by reason of the expiration of the term of any members of the board.

(b) The board shall hear and issue decisions on appeals entered from citations and abatement periods and from all types of penalties. Appeals from orders of the Director dealing with conditions or practices that constitute imminent danger shall not be stayed by the Board until after full and adequate hearing. The board in the discharge of its duties under this act is authorized and empowered to administer oaths and affirmations and institute motions, cause the taking of depositions, interrogatories, certify to official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed necessary as evidence in connection with any appeal or proceeding for review before the board.

(c) The board shall meet at least once each calendar quarter but it may hold call meetings or hearings upon at least three days notice to each member by the chairman and at such time and place as the chairman may fix. The chairman shall be responsible on behalf of the board for the administrative operations of the board and shall appoint such hearing examiners and other employees as he deems necessary to assist in the performance of the board's functions and fix the compensation of such employees with the approval of the Governor. The assignment and removal of hearing examiners shall be made by the board, and any hearing examiner may be removed for misfeasance, malfeasance, misconduct, immoral conduct, incompetency, the commission of any crime, or for any other good and adequate reason as found by the board. The board shall give notice to such hearing examiner, along with written allegations as to the

charges against him, and the same shall be heard by the board, and its decision shall be final. The compensation of the members of the board shall be on a per diem basis and shall be fixed by the Governor with the approval of the Advisory Budget Commission. The chairman of the board may be paid a higher rate of compensation than the other two members of the board. For the purpose of carrying out its duties and functions under this act, two members of the board shall constitute a quorum and official action can be taken only on the affirmative vote of at least two members of the board. On matters properly before the board the chairman may issue temporary orders, subpoenas, and other temporary types of orders subject to the subsequent review of the board. The issuance of subpoenas, orders to take depositions, orders requiring interrogatories and other procedural matters of evidence issued by the chairman shall not be subject to review.

(d) Every official act of the board shall be entered of record and its hearings and records shall be open to the public. The board is authorized and empowered to make such procedural rules as are necessary for the orderly transaction of its proceedings. Unless the board adopts a different rule, the proceedings, as nearly as possible, shall be in accordance with the Rules of Civil Procedure, G.S. 1A-1. The board may order testimony to be taken by deposition in any proceeding pending before it at any stage of such proceeding. Any person, firm or corporation, and its agents or officials, may be compelled to appear and testify and produce like documentary evidence before the board. Witnesses whose depositions are taken under this section, and the persons taking such depositions, shall be entitled to the same fees as are paid for like services in the courts of the State.

(e) The rules of procedure prescribed or adopted by the board shall provide affected employees or representatives of affected employees an opportunity to participate as parties to hearings under this section.

(f) Any member of the board may be removed by the Governor for inefficiency, neglect of duty, or any misfeasance or malfeasance in office. Before such removal the Governor shall give notice of hearing and state the allegations against the member of the board, and the same shall be heard by the Governor, and his decision shall be final. The principal office of the board shall be in Raleigh, North Carolina, but whenever it deems that the convenience of the public or of the parties may be promoted, or delay or expense may be minimized, the board may hold hearings or conduct other proceedings at any place in the State.

(g) In case of a contumacy, failure or refusal of any person to testify before the board, give any type of evidence, or to produce any books, records, papers, correspondence, memoranda or other records, such person upon such failure to obey the orders of the board may be punished for contempt or any other matter involving contempt as set forth and described by the general laws of the State. The board shall issue no order for contempt without first finding the facts involved in the proceeding. Witnesses appearing before the board shall be entitled to the same fees as those paid for the services of said witnesses in the courts of the State, and all such fees shall be taxed against the interested parties according to the judgment and discretion of the board.

(h) The Director shall consult with the chairman of the board with respect to the preparation and presentation to the board for adoption of all necessary forms or citations, notices of all kinds, forms of stop orders, all forms and orders

imposing penalties and all forms of notices or applications for review by the board, and any and all other procedural papers and documents necessary for the administration of the act as applied to employers and employees and for all procedures and proceedings brought before the board for review.

(i) A hearing examiner appointed by the chairman of the board shall hear, and make a determination upon, any proceeding instituted before the board and may hear any motion in connection therewith, assigned to such hearing examiner, and shall make a report of any such determination which constitutes his final disposition of the proceedings. A copy of the report of the hearing examiner shall be furnished to the Director and all interested parties involved in any appeal or any proceeding before the hearing examiner for his determination. The report of the hearing examiner shall become the final order of the board 30 days from the date of said report as determined by the hearing examiner, unless within such period any member of the board had directed that such report shall be reviewed by the entire board as a whole. Upon application for review of any report or determination of a hearing examiner, before the 30 day period expires, the board shall schedule the matter for hearing, on the record, except the board may allow the introduction of newly discovered evidence, or in its discretion the taking of further evidence upon any question or issue. All interested parties to the original hearing shall be notified of the date, time and place of such hearing and shall be allowed to appear in person or by attorney at such hearing. Upon review of said report and determination by the hearing examiner the board may adopt, modify or vacate the report of the hearing examiner and notify the interested parties. The report, decision or determination of the board upon review shall be final unless further appeal is made to the courts under the provisions of Article 33 of Chapter 143 of the General Statutes, as amended, entitled: "Judicial Review of Decisions of Certain Administrative Agencies."

Sec. 11. *Inspections.* (a) In order to carry out the purposes of this act, the Commissioner or Director, or their duly authorized agents, upon presenting appropriate credentials to the owner, operator, or agent in charge, are authorized:

(1) to enter without delay, and at any reasonable time, any factory, plant, establishment, construction site, or other area, work place or environment where work is being performed by an employee of an employer; and

(2) to inspect and investigate during regular working hours, and at other reasonable times, and within reasonable limits, and in a reasonable manner, any such place of employment and all pertinent conditions, processes, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any such employer, owner, operator, agent or employee.

(b) In making his inspections and investigations under this act, the Commissioner may issue subpoenas to require the attendance and testimony of witnesses and the production of evidence under oath. Witnesses shall be reimbursed for all travel and other necessary expenses which shall be claimed and paid in accordance with the prevailing travel regulations of the State. In case of a failure or refusal of any person to obey a subpoena under this section, the District Judge or Superior Court Judge of the county in which the inspection or investigation is conducted shall have jurisdiction upon the application of the Commissioner to issue an order requiring such person to appear and testify or produce evidence as the case may require, and any failure

to obey such order of the Court may be punished by such court as contempt thereof.

(c) Subject to regulations issued by the Commissioner a representative of the employer and an employee authorized by the employees shall be given an opportunity to consult with or to accompany the Commissioner, Director, or their authorized agents, during the physical inspection of any work place described under subsection (a) for the purpose of aiding such inspection. Where there is no authorized employee representative, the Commissioner, Director, or their authorized agents, shall consult with a reasonable number of employees concerning matters of health and safety in the work place.

(d) (1) Any employees or an employee representative of the employees who believe that a violation of a safety or health standard exists that threatens physical harm, or that an imminent danger exists, may request an inspection by giving notice of such violation or danger to the Commissioner or Director. Any such notice shall be reduced to writing, shall set forth with reasonable particularity the grounds for the notice, and shall be signed by employees or the employee representatives of the employees, and a copy shall be provided the employer or his agent no later than at the time of inspection. Upon the request of the person giving such notice, his name and the names of individual employees referred to therein shall not appear in such copy of any record published, released or made available pursuant to subsection (e) of this section. If upon receipt of such notification the Commissioner or Director determines there are reasonable grounds to believe that such violation or danger exists, the Commissioner or Director or their authorized agents shall promptly make a special investigation in accordance with the provisions of this section as soon as practicable to determine if such violation or danger exists. If the Commissioner or Director determines there are not reasonable grounds to believe that a violation or danger exists he shall notify the employees or representatives of the employees, in writing, of such determination.

(2) Prior to, during and after any inspection of a work place, any employees or representative of employees employed in such work place may notify the inspecting Commissioner, Director, or their agents, in writing, of any violation of this act which they have reason to believe exists in such work place. The Commissioner shall, by regulation, establish procedures for informal review of any refusal by a representative of the Commissioner or Director to issue a citation with respect to any such alleged violation and shall furnish the employees or representatives of employees requesting such review a written statement of the reason for the Commissioner's or Director's final disposition of the case.

(e) The Commissioner is authorized to compile, analyze, and publish, in summary or detailed form, all reports or information obtained under this section.

(f) (1) Inspections conducted under this section shall be accomplished without advance notice, subject to the exceptions in paragraph (2) below this subsection.

(2) The Commissioner or Director may authorize the giving to any employer or employee advance notice of an inspection only when the

giving of such notice is essential to the effectiveness of such inspection, and in keeping with regulations issued by the Commissioner.

(g) The Commissioner shall prescribe such rules and regulations as he may deem necessary to carry out his responsibilities under this act, including rules and regulations dealing with the inspection of an employer's establishment.

Sec. 12. Issuance of citations. (a) If, upon inspection or investigation, the Director or his authorized representative has reasonable grounds to believe that an employer has not fulfilled his duties as prescribed in this act, or has violated any standard, regulation, rule or order promulgated under this act, he shall with reasonable promptness issue a citation to the employer. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provisions of the act, standards, rules and regulations, or orders alleged to have been violated. In addition, the citation shall fix a reasonable time for the abatement of the violation. The Director may prescribe procedures for the issuance of a notice in lieu of a citation with respect to *de minimus* violations which have no direct or immediate relationship to safety or health, and violations of State agencies or political subdivisions thereof. Each citation or notice in lieu of citation issued under this section, or a copy or copies thereof, shall be prominently posted, as prescribed in regulations issued by the Director, at or near such place a violation referred to in the citation occurred.

(b) Procedure for enforcement.

(1) If, after an inspection or investigation, the Director issues a citation under any provisions of this act, he shall, within a reasonable time after the termination of such inspection or investigation, notify the employer by certified mail of any penalty, if any, he has recommended to the Commissioner to be proposed under the provisions of this act and that the employer has 15 working days within which to notify the Director that he wishes to contest the citation or proposed assessment of penalty. If, within 15 working days from the receipt of the notice issued by the Director, the employer fails to notify the Director that he intends to contest the citation or proposed assessment of penalty, and no notice is filed by any employee or representative of employees under the provisions of this act within such time, the citation and the assessment as proposed to the Commissioner shall be deemed final and not subject to review by any court.

(2) If the Director has reason to believe that an employer has failed to correct a violation for which a citation has been issued within the period permitted for its correction (which period shall not begin to run until the entry of a final order by the board in case of any review proceedings under this act initiated by the employer in good faith and not solely for a delay or avoidance of penalties), the Director shall notify the employer by certified mail of such failure and of the penalty proposed to be assessed under this act by reason of such failure and that the employer has 15 working days within which to notify the Director that he wishes to contest the Director's notification of the proposed assessment of penalty. If, within 15 working days from the receipt of notification issued by the Director, an employer fails to notify the Director that he intends to contest the notification or proposed recommendation of penalty, the notification and the

proposed assessment made by the Director shall be final and not subject to review by any court.

(3) No citation may be issued under this section after the expiration of six months following the occurrence of any violation.

(4) If an employer notifies the Director that he intends to contest a citation issued under the provisions of this act or notification issued under the provisions of this act, or if, within 15 working days of the receipt of a citation under this act, any employee or his representative files a notice with the Director alleging that the period of time fixed in the citation for the abatement of the violation is unreasonable, the Director shall immediately advise the board of such notification, and the board shall afford an opportunity for a hearing. The board shall thereafter issue an order, based on findings of fact, affirming, modifying, or vacating the Director's citation or the proposed penalty fixed by the Commissioner, or directing other appropriate relief, and such order shall become final 30 days after its issuance. Upon showing by an employer of a good faith effort to comply with the abatement requirements of a citation, and that an abatement has not been completed because of factors beyond his reasonable control, the Director, after an opportunity for a hearing as provided in this act, shall issue an order affirming or modifying the abatement requirements in such citation. The rules of procedure prescribed by the chairman of the board shall provide affected employees or representatives of affected employees an opportunity to participate as parties to hearings under this section.

Sec. 13. Civil penalties. (a) Any employer who willfully or repeatedly violates the requirements of this act, any standard, rule or order promulgated pursuant to this act, or regulations prescribed pursuant to this act, may upon the recommendation of the Director to the Commissioner be assessed by the Commissioner a civil penalty of not more than ten thousand dollars (\$10,000) for each violation. Any employer who has received a citation for a serious violation of the requirements of this act or any standard, rule, or order promulgated under this act or of any regulation prescribed pursuant to this act, shall be assessed by the Commissioner a civil penalty of up to one thousand dollars (\$1,000) for each such violation. If the violation is adjudged not to be of a serious nature, then the employer may be assessed a civil penalty of up to one thousand dollars (\$1,000) for each such violation. Any employer who fails to correct a violation for which a citation has been issued under this act within the period allowed for its correction (which period shall not begin to run until the date of the final order of the board in the case of any review proceedings in this act initiated by the employer in good faith and not solely for the delay or avoidance of penalties), may be assessed a civil penalty of not more than one thousand dollars (\$1,000). Such assessment shall be made to apply to each day during which such failure or violation continues. Any employer who violates any of the posting requirements, as prescribed under the provision of this act, shall be assessed a civil penalty of not more than one thousand dollars (\$1,000) for such violation. The Commissioner upon recommendation of the Director, or the board in case of a review, shall have authority to assess all civil penalties provided by this act, giving due consideration to the appropriateness of the penalty with respect to the size of the business of the employer being charged, the gravity of the violation, the good faith of the employer and the record of previous violations.

(b) All civil penalties and interest recovered by the Commissioner, together

with the costs thereof, shall be paid into the General Fund of the State Treasury.

Sec. 14. *Criminal penalties.* Any employer who willfully violates any standard, rule, regulation or order promulgated pursuant to the authority of this act, and said violation causes the death of any employee, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than ten thousand dollars (\$10,000) or by imprisonment for not more than six months, or by both; except that if the conviction is for a violation committed after a first conviction of such person, punishment shall be a fine of not more than twenty thousand dollars (\$20,000) or by imprisonment for not more than one year, or by both. This section shall not prevent any prosecuting officer of the State of North Carolina from proceeding against such employer on a prosecution charging any degree of willful or culpable homicide. Any person who gives advance notice of any inspection to be conducted under this act, without authority from the Commissioner, Director, or any of their agents to whom such authority has been delegated, shall be guilty of a misdemeanor, and upon conviction thereof, be punished by a fine of not more than one thousand dollars (\$1,000) or by imprisonment for not more than six months, or by both. Whoever knowingly makes any false statement, representation, or certification in any application, record, report, plan, or any other document filed or required to be maintained pursuant to this act, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than ten thousand dollars (\$10,000) or by imprisonment for not more than six months, or by both. Whoever shall commit any kind of assault upon or whoever kills a person engaged in or on account of the performance of investigative, inspection, or law enforcement functions shall be subject to prosecution under the general criminal laws of the State and upon such charges as the proper prosecuting officer shall charge or allege.

Sec. 15. *Procedures to counteract imminent dangers.* (a) The Superior Courts of this State shall have jurisdiction, upon petition of the Commissioner, to restrain any conditions or practices in any place of employment which are such that a danger exists, which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided by this act. Any order issued under this section may require such steps to be taken as may be necessary to avoid, correct, or remove such imminent danger and prohibit the employment or presence of any individual in locations or under conditions where such imminent danger exists, except those individuals whose presence is necessary to avoid, correct or remove such imminent danger or to maintain the capacity of a continuous process operation to assume normal operations without a complete cessation of operations, or where a cessation of operations is necessary to permit such to be accomplished in a safe and orderly manner.

(b) Upon the filing of any such petition the Superior Court shall, without the necessity of showing an adequate remedy at law, have jurisdiction to grant injunctive relief or temporary restraining order pending the outcome of an enforcement proceeding pursuant to this act. The proceeding shall be as provided under the statutes and Rules of Civil Procedure of this State except

that no temporary restraining order issued without notice shall be effective for a period longer than five days.

(c) Whenever and as soon as an inspector concludes that conditions or practices described in this section exist in any place of employment, he shall inform the affected employees and employers of the danger and that he is recommending to the Commissioner that relief be sought. If the Commissioner arbitrarily or capriciously fails to seek relief under this section, any employee who may be injured by reason of such failure, or the representative of such employee, may bring an action against the Commissioner in the Superior Court of the district in which the imminent danger is alleged to exist or the employer has its principal office or place of business, for a writ of mandamus to compel the Commissioner to seek such an order for such relief as may be appropriate.

Sec. 16. *Judicial Review.* Any person or party in interest who has exhausted all administrative remedies available under this act and who is aggrieved by a final decision in a contested case is entitled to judicial review in accordance with Article 33 of Chapter 143, as amended, the same being entitled: "Judicial Review of Decisions of Certain Administrative Agencies." The Commissioner may file in the office of the clerk of the Superior Court of the county wherein the person, firm or corporation under order resides, or, if a corporation is involved, in the county wherein the corporation maintains its principal place of business, or in the county wherein the violation occurred, a certified copy of a final order of the Commissioner unappealed from, or of a final order of the Commissioner affirmed upon appeal. Whereupon, the clerk of said court shall enter judgment in accordance therewith and notify the parties. Such judgment shall have the same effect, and all proceedings in relation thereto shall thereafter be the same, as though said judgment had been rendered in a suit duly heard and determined by the Superior Court of the General Court of Justice.

Sec. 17. *Legal Representation of the Department of Labor.* It shall be the duty of the Attorney General to represent the Department of Labor or designate some member of his staff to represent them in all actions or proceedings in connection with this act.

Sec. 18. *Record Keeping and Reporting.* (a) Each employer shall make available to the Commissioner, or his agents, in such manner as the Commissioner shall require, copies of the same records and reports regarding his activities relating to this act as are required to be made, kept, or preserved by Section 8(c) of the Federal Occupational Safety and Health Act of 1970 (P. L. 91-596) and regulations made pursuant thereto.

(b) Each employer shall make, keep and preserve and make available to the Commissioner such records regarding his activities relating to this act as the Commissioner may prescribe by regulation as necessary and appropriate for the enforcement of this act or for developing information regarding the causes and prevention of occupational accidents and illnesses. In order to carry out the provisions of this section such regulations may include provisions requiring employers to conduct periodic inspections. The Commissioner shall also issue regulations requiring that employers, through posting of notices or other appropriate means, keep the employees informed of their protections and obligations under this act, including the provisions of applicable standards. The Commissioner shall prescribe regulations requiring employers to maintain accurate records of, and to make periodic reports on, work-related deaths, injuries and illnesses other than minor injuries requiring only first aid

treatment and which do not involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job.

(c) The Commissioner shall issue regulations requiring employers to maintain accurate records of employee exposure to potentially toxic materials of harmful physical agents which are required to be monitored or measured under this act. Such regulations shall provide employees or their representatives with an opportunity to observe such monitoring or measuring, and to have access to the records thereof. Such regulations shall also make appropriate provisions for each employee or former employee to have access to such records as will indicate his own exposure to toxic materials or harmful physical agents. Each employer shall promptly notify any employee who has been or is being exposed to toxic materials or harmful physical agents in concentrations or at levels which exceed those prescribed by an applicable safety and health standard promulgated under this act and shall inform any employee who is being thus exposed of the corrective action being taken.

(d) Any information obtained by the Commissioner or his duly authorized agents under this act shall be obtained with a minimum burden upon employers, especially those operating small businesses. Unnecessary duplication of efforts in obtaining information shall be reduced to the maximum extent feasible.

Sec. 19. Statistics. (1) In order to further the purposes of this act, the Commissioner shall develop and maintain an effective program of collection, compilation, and analysis of occupational safety and health statistics. The Commissioner shall compile accurate statistics on work injuries and illnesses which shall include all disabling, serious or significant injuries or illnesses, whether or not involving loss of time from work, other than minor injuries requiring only first aid treatment and which do not involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job. On the basis of records made and kept pursuant to the provisions of this act, employers shall file such reports with the Commissioner as he shall prescribe by regulations and as may be necessary to carry out his functions.

(2) A listing of employment by area and industry of employers who have an assigned account number by the Employment Security Commission shall be supplied annually to the Commissioner by the Employment Security Commission of this State. The listing of employment by area and industry shall contain at least the following: employer name; Employment Security Commission account number; indication of whether multiple or a single report unit; number of reporting units; average employment; establishment size code; geographical area; any four-digit code; and any other information deemed necessary by the Commissioner to meet federal reporting requirements.

Sec. 20. Reports to the Secretary. (a) The Commissioner shall require employers in the State to make reports to the secretary in the same manner and to the same extent as if the plan in force under this act were not in effect, and

(b) The Commissioner shall make such reports to the secretary in such form and containing such information as the secretary from time to time shall require.

Sec. 21. Continuation and Effectiveness of this Act. The Commissioner shall from time to time furnish to the secretary information and assurances that this act is being administered by adequate methods and by standards and

enforcement procedures which are and will continue to be as effective as federal standards.

Sec. 22. *Training and Employee Education.* (a) The Commissioner, after consultation with appropriate departments and agencies of the State and subdivisions of government, shall conduct, directly or by grants or contracts, (1) education programs to provide an adequate supply of qualified personnel to carry out the purposes of this act, and (2) informational, educational and training programs on the importance of and proper use of adequate safety and health equipment to encourage voluntary compliance.

(b) The Commissioner is also authorized to conduct, directly or by grants or contracts, short-term training of personnel engaged in work related to the Commissioner's responsibilities under this act.

(c) The Commissioner shall provide employers and employees programs covering recognition, avoidance and prevention of unsafe and unhealthful working conditions in places of employment and shall advise employers and employees, or their representatives, effective means to prevent occupational injuries and illnesses.

Sec. 23. *Safety and Health Programs of State Agencies and Local Governments.* It shall be the responsibility of each administrative department, commission, board, division or other agency of the State and of counties, cities, towns and subdivisions of government to establish and maintain an effective and comprehensive occupational safety and health program which is consistent with the standards and regulations promulgated under this act. The head of each agency shall:

(a) provide safe and healthful places and conditions of employment, consistent with the standards and regulations promulgated by this act;

(b) acquire, maintain, and require the use of safety equipment, personal protective equipment, and devices reasonably necessary to protect employees;

(c) consult with, and encourage employees to cooperate in achieving safe and healthful working conditions;

(d) keep adequate records of all occupational accidents and illnesses for proper evaluation and corrective action;

(e) consult with the Commissioner as to the adequacy as to form and content of records kept pursuant to this section;

(f) make an annual report to the Commissioner with respect to occupational accidents and injuries and the agency's program under this section.

(g) The Commissioner shall transmit annually to the Governor and the General Assembly a report of the activities of the State agency and instrumentalities under this section. If the Commissioner has reason to believe that any local government program or program of any agency of the State is ineffective, he shall, after unsuccessfully seeking by negotiations to abate such failure, include this in his annual report to the Governor and the General Assembly, together with the reasons therefor, and may recommend legislation intended to correct such condition.

(h) The Commissioner shall have access to the records and reports kept and filed by State agencies and instrumentalities pursuant to this section unless such records and reports are required to be kept secret in the interest of national defense, in which case the Commissioner shall have access to such information as will not jeopardize national defense.

(i) The Commissioner will not impose civil or criminal penalties against any

State agency or political subdivision for violations described and covered by this act.

(j) Employees of any agency or department covered under this section are afforded the same rights and protections as granted employees in the private sector.

Sec. 24. *Authority to enter into Contracts with other State Agencies and Subdivisions of Government.* The Commissioner is authorized and empowered to enter into contracts with the Department of Public Health or any other State officer or State agency or State instrumentality, or any municipality, county, or other political subdivision of the State, for the enforcement, administration, and any other application of the provisions of this act.

Sec. 25. *Assurance of Adequate Funds to Enforce Act.* The Commissioner shall submit to the General Assembly a budget and request for appropriations to adequately administer this act which shall be sufficient to give satisfactory assurance that this State will devote adequate funds to the administration and enforcement of the standards herein provided and the proper administration of this act as required by federal standards.

Sec. 26. *Discrimination.* No employer, employee, or any other person related to the administration of this act shall be discriminated against in any work, procedure, or employment by reason of sex, race, ethnic origin, or by reason of religious affiliation.

Sec. 27. *Confidentiality of Trade Secrets.* All information reported to or otherwise obtained by the Commissioner or his agents or representatives in connection with any inspection or proceeding under this act which contains or which might reveal a trade secret shall be considered confidential, as provided by Section 1905 of Title 18 of USC, except as to carrying out this act or when it is relevant in any proceeding under this act. In any such proceeding the Commissioner, the board or the court shall issue such orders as may be appropriate to protect the confidentiality of trade secrets.

Sec. 28. (Reserve for future codification purposes.)

Sec. 29. *Authorization for Similar Safety and Health Federal-State Programs.* Consistent with the requirements and conditions provided in this act the State, upon the recommendation of the Commissioner of Labor and approval of the Governor, may enter into agreements or arrangements with other federal agencies for the purpose of administering occupational safety and health measures for such employees and employers within the State of North Carolina as may be covered by such federal safety and health statutes.

Sec. 30. *Construction of Act and Severability.* This act shall receive a liberal construction to the end that the safety and health of the employees of the State may be effectuated and protected. If any provision of this act or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Sec. 31. This act shall become effective on July 1, 1973, with respect to those employers and employees engaged in private employment and business and effective as to public employers, governmental subdivisions, and their employees, one year and 90 days after ratification.

In the General Assembly read three times and ratified, this the 1st day of May, 1973.

H. B. 696

CHAPTER 296

AN ACT TO REQUIRE THE DISCLOSURE OF PROPERTY INTERESTS
AND ASSETS BY GUILFORD COUNTY OFFICIALS.

The General Assembly of North Carolina enacts:

Section 1. Every member of the Board of Commissioners of Guilford County shall within thirty (30) days after the effective date of this act or within thirty (30) days after assuming office disclose any legal, equitable or beneficial interest he or his spouse may have in any real property in Guilford County which is in the zoning, water and sewer jurisdiction of the Board of County Commissioners of Guilford County.

This disclosure shall be filed in writing with the Clerk of Superior Court and shall include all real property which any Commission member holds title to, individually or jointly, any real property held in trust as well as any pecuniary interest he may have in any business, firm or corporation of whatever nature, which holds title to or has any ownership interest in any real property within the zoning, water and sewer jurisdiction of the Board of Commissioners of Guilford County.

Sec. 2. Every member of the Board of Commissioners of Guilford County shall disclose any legal, equitable or beneficial ownership interest he may have in any business, firm, or corporation, of whatever nature, which is doing business with Guilford County pursuant to contracts which have been awarded by the Board of County Commissioners.

Sec. 3. Every member of the Board of County Commissioners of Guilford County shall disclose any legal, equitable or beneficial ownership interest he may have in any business, firm, or corporation, of whatever nature, which is attempting to secure the award of a bid from the County, prior to the award of any contract.

Sec. 4. The acquisition by any member subject to this act of any legal, equitable or beneficial interest in real property within the zoning, water and sewer jurisdiction of the Board of Commissioners of Guilford County shall be disclosed within thirty (30) days after the acquisition of same. Any legal, equitable or beneficial ownership interest which any member has in any business, firm or corporation, of whatever nature, with whom Guilford County is now doing business, shall be disclosed within thirty (30) days after the effective date of this act or within thirty (30) days after acquisition of the ownership interest.

Sec. 5. Every Board member who has an ownership interest required to be disclosed by this act shall disqualify himself from voting on any matter involving any such ownership interest which comes for official action before the Board of County Commissioners of Guilford County.

Sec. 6. Any member who violates any provision of this act shall be guilty of a misdemeanor and may be fined not more than one thousand dollars (\$1,000) or imprisoned not more than one year, or both. Any member who is convicted of a violation of any provision of this act shall forfeit his elected or appointed office, and such office shall be considered vacant as of the date of the final judgment of conviction.

Sec. 7. This act shall become effective on January 1, 1974.

In the General Assembly read three times and ratified, this the 1st day of May, 1973.

H. B. 876

CHAPTER 297

AN ACT ESTABLISHING THE BUNCOMBE COUNTY PERSONNEL ADVISORY BOARD.

The General Assembly of North Carolina enacts:

Section 1. Creation. There is hereby created a Personnel Advisory Board for the Sheriff's Department of Buncombe County which shall be composed of three members to be appointed by the senior regular resident Superior Court judge of the 28th Judicial District.

Sec. 2. Terms, and Qualifications and Removal. The senior judge of Superior Court shall, on or before July 1, 1973, appoint the three members of his selection who shall constitute the Personnel Advisory Board. The term of office of one member of the Board shall be for one year; the term of office of one member shall be for two years; and the term of office of one member shall be for three years. The resident judge shall determine and announce the terms of the respective members of the Board.

"At the expiration of the term of each member of said Board the resident judge shall appoint a successor for a term of three years. Any vacancy in the Personnel Advisory Board shall be filled in the manner herein provided for the appointment of members, and the person so appointed shall serve for the unexpired term of the member whose place he fills. Members of the Board shall hold office until their successors are appointed and qualified.

All persons appointed to the Personnel Advisory Board shall be interested in promoting a merit system of personnel administration and none shall practice or have practiced law in the criminal courts of Buncombe County or hold or have held political office or an office in a political party during the previous three years.

The members of the Board shall serve without pay or remuneration but shall be reimbursed for travel expenses incurred in the course of their duties.

The Board shall annually elect one of its members as chairman.

A member of the Board may be removed by the senior resident judge only for cause, after being given a copy of the charges against him and an opportunity to be heard publicly on such charges."

Sec. 3. Duties of Personnel Advisory Board. The duties of the Personnel Board shall be as follows:

(1) to represent the public interest in the improvement of personnel administration;

(2) to advise the Sheriff of Buncombe County concerning personnel administration, including minimum standards of employment established by the Criminal Justice and Training and Standards Council, and the methods used to publicize vacancies;

(3) to make any investigations which it may consider desirable concerning the administration of personnel in the Department;

(4) to advise the Sheriff on such personnel rules as he shall establish; and

(5) to hear appeals, receive evidence, determine facts and make recommendations to the Sheriff in case of employee appeals of suspension, demotion and dismissal.

Sec. 4. General Principles. (1) All appointments and promotions shall be made solely on the basis of merit and fitness and all residents of Buncombe

County shall be given equal opportunity for employment without regard to race, religion, color, creed and national origin.

(2) Tenure of employees covered by this act shall be subject to good behavior, satisfactory work performance, necessity for performance of work, and the availability of funds.

(3) Any employee who contends that he was demoted, suspended or dismissed because of bias, political affiliation, or for reasons not related to merit, fitness or availability of positions, shall have the right to appeal to the Personnel Advisory Board.

Sec. 5. Political Activity Restricted. Every employee has a civic responsibility to support good government by every available means and in every appropriate manner. Each employee may join or affiliate with civic organizations of a partisan or political nature, may attend political meetings, and may advocate and support the principles or policies of civic or political organizations in accordance with the Constitution and laws of the State of North Carolina and in accordance with the Constitution and laws of the United States of America. However, no employee of the Department shall (1) engage in any political activity while on duty, (2) be required as a duty of his office or employment, or as a condition for employment, promotion, or tenure of office, to contribute funds for political or partisan purposes, (3) solicit, or act as custodian of, funds for political or partisan purposes, (4) coerce or compel contributions for political or partisan purposes by any other employee of the County, or (5) use any supplies or equipment of the County for political purposes. Any violation of this section shall be deemed improper conduct and shall subject such employee to dismissal or other disciplinary action by the Sheriff.

Sec. 6. Exemptions. All employees in the Sheriff's Department shall be subject to this act except the Sheriff, the Chief Deputy Sheriff, the Assistant Chief Deputy Sheriff and the Administrative Deputy Sheriff.

Sec. 7. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 8. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 1st day of May, 1973.

H. B. 1109

CHAPTER 298

AN ACT APPOINTING THE MEMBERS OF THE BOARD OF EDUCATION OF WHITEVILLE CITY SCHOOL ADMINISTRATIVE UNIT.

The General Assembly of North Carolina enacts:

Section 1. Chapter 130 of the 1971 Session Laws is hereby repealed.

Sec. 2. Billy Hooks, Mrs. Brooks Stanley, Harry "Bobby" Jordan, J. B. Davis, Julian R. Parks, E. L. White, Dr. W. C. Burns, Bill Friedman and Lewis S. Cokley are hereby appointed members of the Board of Education of the Whiteville City School Administrative Unit.

Sec. 3. The above-named members shall begin their terms of office on the first Monday in May, 1973, and the terms of office of the above-named

members shall continue for a term of two years thereafter and until their successors shall be duly appointed and qualified.

Sec. 4. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 1st day of May, 1973.

H. B. 1111

CHAPTER 299

AN ACT CONFORMING CHAPTER 101 OF THE 1973 SESSION LAWS TO THE LOCAL GOVERNMENT BUDGET AND FISCAL CONTROL ACT.

The General Assembly of North Carolina enacts:

Section 1. Section 18 of Chapter 101 of the Session Laws of 1973 is amended by rewriting the second sentence to read as follows:

“Said commissioners shall draw and present to the County Commissioners a budget for the Commission, and the Columbus County Police Force, in sufficient time for the preparation of the 1973-74 budget as determined by the county budget officer.”

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of May, 1973.

H. B. 1112

CHAPTER 300

AN ACT TO AMEND CHAPTER 72 OF THE 1971 SESSION LAWS RELATING TO THE APPOINTMENT OF SPECIAL DEPUTIES IN COLUMBUS COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 72 of the 1971 Session Laws is hereby amended by deleting from the title thereof the words “County Commissioners” and inserting in lieu thereof the words “Columbus County Public Safety Commission”.

Sec. 2. Section 1 of Chapter 72 of the 1971 Session Laws is hereby amended as follows:

- (1) by deleting from the seventh line thereof the words “board of county commissioners” and inserting in lieu thereof the words “the Columbus County Public Safety Commission”;
- (2) by rewriting the third paragraph to read as follows: “The sheriff, with the approval of the Columbus County Public Safety Commission, may appoint such person or persons as they deem proper as special deputy sheriffs. The appointment shall be in writing and for a period not to exceed two years. The Columbus County Public Safety Commission or the sheriff, with the approval of the Columbus County Public Safety Commission, may terminate the appointment at will.”;
- (3) by inserting in the thirteenth line thereof, immediately following the word “sheriff” the words “Columbus County Public Safety Commission”; and
- (4) by inserting in the fourteenth line thereof, immediately following the word “county” the words “, the Columbus County Public Safety Commission”.

Sec. 3. Section 2 of Chapter 72 of the 1971 Session Laws is hereby

amended by deleting from the third line thereof the words "county commissioners" and inserting in lieu thereof the words "Columbus County Public Safety Commission".

Sec. 4. Section 3 of Chapter 72 of the 1971 Session Laws is hereby rewritten to read as follows:

"Sec. 3. The compensation of such deputies shall be paid by persons for whom the deputies are appointed, as may be agreed on between them; however, the employer shall file a copy of the compensation agreement with the sheriff and with the Columbus County Public Safety Commission at the time of the original appointment and at the time of any subsequent reappointment and at any time there is a change in the terms of the compensation agreement."

Sec. 5. This act shall not be construed as terminating the appointment of any special deputies appointed under the provisions of Chapter 72 of the 1971 Session Laws, nor shall it be construed to terminate, modify or otherwise affect the authority of any special deputies appointed thereunder.

Sec. 6. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of May, 1973.

S. B. 191

CHAPTER 301

AN ACT TO AMEND G.S. 7A-16 BY ADDING A NEW PARAGRAPH AT THE END THEREOF.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-16 is amended by adding a new paragraph at the end thereof as follows:

"In the event the Chief Judge is unable, on account of absence or temporary incapacity, to perform the duties placed upon him as Chief Judge, the Chief Justice shall appoint an acting Chief Judge from the other judges of the Court, to temporarily discharge the duties of Chief Judge."

Sec. 2. This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of May, 1973.

H. B. 341

CHAPTER 302

AN ACT AMENDING THE LOCAL GOVERNMENT SALES AND USE TAX ACT SO AS TO AUTHORIZE THE USE OF THE PROCEEDS THEREOF FOR ANY PUBLIC PURPOSE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-466(b) is amended by placing a period after "G.S. 105-465" in the sixth line thereof as it appears in the 1972 Replacement Volume 2D of the General Statutes, and by striking out the remainder of the subsection, so that subsection (b) reads as follows:

"(b) In addition, the board of county commissioners may, in the event no election has been held under the provisions of G.S. 105-465 in which the tax has been defeated, after not less than 10 days' public notice and after a public hearing held pursuant thereto, by resolution, impose and levy the local sales and

use tax to the same extent and with the same effect as if the levy of the tax had been approved in an election held pursuant to G.S. 105-465.”

Sec. 2. This act becomes effective on July 1, 1973.

In the General Assembly read three times and ratified, this the 3rd day of May, 1973.

H. B. 568**CHAPTER 303****AN ACT TO DELETE CATAWBA COUNTY FROM THE PROVISIONS OF CERTAIN OBSOLETE PUBLIC, PRIVATE AND PUBLIC LOCAL LAWS OF NORTH CAROLINA.**

The General Assembly of North Carolina enacts:

Section 1. That Catawba County, having been formerly included along with other counties, shall be omitted from all provisions of the following acts:

1939 Public Laws: Chapter 294
1935 Public Laws: Chapter 7
1929 Public Local Laws: Chapter 76, 378
1927 Public Laws: Chapter 42
1925 Public Local Laws: Chapter 449
1923 Public Local Laws: Chapter 107
1921 Public Laws (Ex. Sess.): Chapter 6
1921 Public Local Laws (Ex. Sess.): Chapter 61
1917 Public Local Laws: Chapter 574
1911 Public Local Laws: Chapters 69, 83, 218
1909 Public Laws: Chapter 824
1907 Public Laws: Chapter 112
1905 Public Laws: Chapters 305, 214
1903 Public Laws: Chapters 276, 478, 482, 598
1901 Public Laws: Chapters 265, 554
1899 Public Laws: Chapters 17, 523, 696
1897 Public Laws: Chapter 395
1895 Public Laws: Chapter 426
1891 Public Laws: Chapters 75, 172
1889 Public Laws: Chapter 362
1887 Public Laws: Chapter 209
1885 Public Laws: Chapters 149, 179
1883 Public Laws: Chapter 155
1881 Public Laws: Chapters 153, 234
1879 Public Laws: Chapter 232
1874-75 Public Laws: Chapters 80, 163
1858-59 Public Laws: Chapter 176

Sec. 2. This act shall not be deemed to repeal, modify or in any manner affect any validating laws applying to Catawba County. As used in this section, the term “validating laws” means laws ratifying, confirming, approving or validating official proceedings, actions, contracts, bonds or obligations of any kind.

Sec. 3. No provision of this act is intended, nor shall any be construed, to affect in any way any right or interest:

(a) now vested or accrued, in whole or in part, the validity of which might be

sustained or preserved by reference to any provision of law repealed by this act;
or

(b) derived from, or which might be sustained or preserved in reliance upon, action heretofore taken (including the adoption of ordinances and resolutions) pursuant to or within the scope of any provision of law repealed by this act.

Sec. 4. No law repealed, expressly or by implication, nor any law the provisions of which Catawba County shall have been omitted from, before the effective date of this act is revived by:

(a) the repeal in this act of any act repealing that law, or

(b) any provision of this act that disclaims an intention to repeal or affect enumerated laws.

Sec. 5. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 6. This act shall be effective on and after ratification.

In the General Assembly read three times and ratified, this the 3rd day of May, 1973.

H. B. 569

CHAPTER 304

AN ACT TO REPEAL CERTAIN OBSOLETE PUBLIC, PRIVATE, AND
PUBLIC LOCAL LAWS OF NORTH CAROLINA CONCERNING
CATAWBA COUNTY.

The General Assembly of North Carolina enacts:

Section 1. That the following acts are hereby repealed:

1955 Session Laws: Chapter 788
1953 Session Laws: Chapters 433, 525, 783
1951 Session Laws: Chapter 1135
1943 Session Laws: Chapter 465
1941 Public Local Laws: Chapter 236
1939 Public Local Laws: Chapter 574
1937 Public Local Laws: Chapters 112, 218, 244, 283, 515
1935 Public Local Laws: Chapters 402, 521, 541
1933 Public Local Laws: Chapters 290, 490, 502
1929 Public Local Laws: Chapters 248, 369, 379
1925 Public Laws: Chapter 164
1925 Public Local Laws: Chapters 147, 374
1923 Public Local Laws: Chapter 273
1917 Public Local Laws: Chapter 412
1913 Public Local Laws: Chapters 814, 822
1911 Public Local Laws: Chapters 331, 563
1909 Public Laws: Chapters 724, 736
1905 Public Laws: Chapter 272
1903 Public Laws: Chapter 301
1901 Public Laws: Chapter 315
1895 Public Laws: Chapter 65
1893 Public Laws: Chapters 298, 518
1891 Public Laws: Chapters 287, 327
1883 Public Laws: Chapter 49
1881 Private Laws: Chapter 24
1879 Public Laws: Chapter 244

1876-77 Public Laws: Chapter 194

1874-75 Private Laws: Chapter 50

1861 Second Ex. Session: Chapter 54

1858-59 Public Laws: Chapter 277

Sec. 2. This act shall not be deemed to repeal, modify or in any manner affect any validating laws applying to Catawba County. As used in this section, the term "validating laws" means laws ratifying, confirming, approving or validating official proceedings, actions, contracts, bonds or obligations of any kind.

Sec. 3. No provision of this act is intended, nor shall any be construed, to affect in any way any right or interest:

(a) now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provision of law repealed by this act; or

(b) derived from, or which might be sustained or preserved in reliance upon, action heretofore taken (including the adoption of ordinances and resolutions) pursuant to or within the scope of any provision of law repealed by this act.

Sec. 4. No law repealed, expressly or by implication, before the effective date of this act is revived by:

(a) the repeal in this act of any act repealing that law, or

(b) any provision of this act that disclaims an intention to repeal or affect enumerated laws.

Sec. 5. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 6. This act shall be effective on and after ratification.

In the General Assembly read three times and ratified, this the 3rd day of May, 1973.

H. B. 597

CHAPTER 305

AN ACT TO INCREASE THE POWERS OF COUNTY COMMISSIONERS WITH REGARD TO THE OPERATION OF WATER AND SEWERAGE FACILITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153-284 is hereby amended by adding at the end thereof a new subdivision to read as follows:

"(3) To establish an agency (which may be termed a board, commission, council or such other name as may be selected which shall be subject to the control of the governing body of such county) to be charged with the responsibility, in whole or in part, of exercising the powers provided in this Article. The agency may continue in operation for such period of time as the county may deem desirable. Funds may be appropriated by the governing body of such county to any such agency to be used to carry out its responsibilities, and any such appropriations shall be on the basis of an annual budget recommended by such agency and submitted to such governing body for approval. The accounting for all funds of such agency and the disbursement of all funds thereof

shall be in accordance with the terms of the resolution establishing such agency.”

Sec. 1.1. This act shall apply only to Moore County.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of May, 1973.

H. B. 660

CHAPTER 306

AN ACT REVISING THE METHOD OF ELECTING MEMBERS OF THE LAURINBURG SCOTLAND COUNTY BOARD OF EDUCATION AND CHANGING THE NAME THEREOF.

The General Assembly of North Carolina enacts:

Section 1. Section 4 of Chapter 707 of the Session Laws of 1963 is hereby rewritten as follows:

“Sec. 4.(a) The Scotland County Board of Education shall be comprised of 8 members. Five of the members shall be residents of the Stewartsville Township and 3 of the members shall be residents of any of the remaining 3 townships in Scotland County at large.

(b) Beginning with a primary election to be held in 1974, 2 members who shall be residents of the Stewartsville Township and 2 members, who shall be residents of the other 3 townships at large shall be elected to membership on the Scotland County Board of Education for initial terms of 4 years to expire in 1978. Beginning with a primary election to be held in 1976, 3 members, who shall be residents of the Stewartsville Township, and 1 member, who shall be a resident of any of the other 3 townships, shall be elected to membership on the said board for initial terms of 4 years to expire in 1980. In 1978 when the initial terms of the first 4 members expire and in the regular county-wide biennial election of that year and in each regular county-wide biennial election thereafter, four members shall be elected for terms of four years each.

(c) The initial election for the 4 year terms of the 2 Stewartsville Township members and the 2 members at large shall be conducted according to the procedure set forth in subsections (d)(1) and (2) which provide for the regular elections for these seats beginning in 1978 and the initial election for the four-year terms of the other 3 Stewartsville Township members and the other 1 member at large shall be conducted in accordance with the procedures set forth in subsection (d)(3) and (4) which provides for regular elections for these seats on the board beginning in 1980.

(d) The procedure for election of members to the Scotland County Board of Education beginning in 1978 and every 2 years thereafter shall be as follows:

(1) At a primary election to be held in 1978 and every four years thereafter at the same time as the primary for the nomination of county officers 2 persons who shall reside within the Stewartsville Township and 2 persons who shall reside within any one of the other 3 Scotland County Townships at large shall be elected for terms of 4 years each.

(2) (a) The 2 candidates from Stewartsville Township receiving the largest number of votes in the primary election shall be the nominees whose names shall be placed upon the ballot at the general election and the 2 candidates at large from the other 3 Scotland County Townships who shall receive the largest number of votes in the primary election shall

be the at large nominees whose names shall be placed upon the ballot at the general election; provided however, that if 2 or fewer candidates should file for nomination from the Stewartsville Township and if 2 or fewer candidates should file for the nomination from the other 3 townships at large the names of such candidates shall be placed on the ballot for the general election and there shall be no primary election for the Stewartsville Township or for the 3 at large townships.

- (b) If the number of candidates who file for nomination from the Stewartsville Township is twice or fewer than the number of vacancies from Stewartsville Township the names of such candidates shall be placed on the ballot for the general election and there shall be no primary election; provided further, that if the number of candidates who file for nomination from the Stewartsville Township is more than twice the number of vacancies from the Stewartsville Township there shall be placed on the ballot at the general election the four (twice the number of vacancies) candidates receiving the largest number of votes.
- (c) If the number of candidates who file for nomination from the other 3 Scotland County Townships is twice or fewer than the number of vacancies from the other 3 Scotland County Townships the names of such candidates shall be placed on the ballot for the general election and there shall be no primary election; provided further, that if the number of candidates who file for nomination from the other 3 Scotland County Townships is more than twice the number of vacancies from the other 3 Scotland County Townships there shall be placed on the ballot at the general election the 4 (twice the number of vacancies) candidates receiving the largest number of votes.
- (3) At a primary election to be held in 1980 and every 4 years thereafter at the same time as the primary for the nomination of county officers 3 persons who shall reside within the Stewartsville Township and 1 person who shall reside within any 1 of the other 3 Scotland County Townships at large shall be elected to membership on the Scotland County Board of Education for terms of 4 years each.
- (4) (a) The 3 candidates from Stewartsville Township receiving the largest number of votes in the primary election and the 1 candidate from the other 3 Scotland County Townships receiving the largest number of votes in the primary election shall be the nominees whose names shall be placed upon the ballot at the general election; provided however, that if 3 or fewer candidates should file for nomination from the Stewartsville Township or no more than 1 candidate should file for nomination from the other 3 townships at large the names of such candidates shall be placed on the ballot for the general election and there shall be no primary election for the Stewartsville Township or for Scotland County at large.
- (b) If the number of candidates who file for nomination from the Stewartsville Township is twice or fewer than the number of vacancies from Stewartsville Township the names of such candidates shall be placed on the ballot for the general election and there shall be no primary election; provided further, that if the number of

candidates who file for nomination from the Stewartsville Township is more than twice the number of vacancies from the Stewartsville Township there shall be placed on the ballot at the general election the 6 (twice the number of vacancies) candidates receiving the largest number of votes.

- (c) If the number of candidates who file for nomination from the other 3 Scotland County Townships at large shall be twice or fewer than the number of vacancies from the other 3 Scotland County Townships the names of such candidates shall be placed on the ballot for the general election and there shall be no primary election; provided further that if the number of candidates who file for the nomination from the other 3 Scotland County Townships is more than twice the number of vacancies from the other 3 Scotland County Townships there shall be placed on the ballot at the general election the 2 (twice the number of vacancies) candidates receiving the largest number of votes.

(e) Effective 1974 no person shall be eligible to serve more than 4 successive four-year elected terms on the Scotland County Board of Education.

(f) The Board of Education shall prepare a ballot for use in the primaries and general elections which shall be separate from other ballots and on which shall be listed separately the candidates from the Stewartsville Township and the candidates from the 3 other Scotland County Townships at large. The names of the candidates shall be placed on a ballot separate from other ballots, bearing no party designation, and no party affiliation need be indicated at the time of filing. Except as herein provided, all primary elections and general elections shall be held, conducted and supervised by the County Board of Elections under the laws and regulations providing for the election of county officers.

(g) All candidates for membership on the Scotland County Board of Education shall file a notice of such candidacy with the Board of Elections not later than 12:00 p.m. on the Monday preceding the tenth Tuesday before the primary election is to be held and each candidate shall pay a filing fee of ten dollars (\$10.00) and in addition shall certify in writing whether he is filing for the Stewartsville Township seat or the at-large seat, the township within which he resides and that he is a bona fide resident thereof, said notice to be filed with the Scotland County Board of Elections.

(h) All persons registered and qualified to vote in the general election shall be qualified to vote in the primary. All qualified voters of Scotland County may vote in any primary or general election held pursuant to this act and may vote for all candidates for the Board of Education regardless of their residence in either the Stewartsville Township or the at-large townships.

(i) Any vacancies which may occur on the Scotland County Board of Education after the election of the members of the Board in 1974 shall be filled by appointment by a majority of the remaining members of the board for the unexpired term; provided that, if the seat which shall become vacant is held by a resident of Stewartsville Township his successor shall likewise be a resident of the Stewartsville Township and if the seat which shall become vacant is held by a resident of the at-large townships his successor shall likewise be a resident of one of the at-large townships.

(j) In the event no candidate is elected in the general election to fill any term which is about to expire then and in that event the Scotland County Board of

Education shall declare a vacancy and such vacancy shall be filled in accordance with subsection (i)."

Sec. 2. Section 5(b) of Chapter 707 of the Session Laws of 1963 is hereby repealed.

Sec. 3. Section 10 of Chapter 707 of the Session Laws of 1963 is hereby redesignated as Section 11.

Sec. 4. Chapter 707 of the Session Laws of 1963 is hereby amended by adding a new Section 10, as follows:

"Sec. 10. The public school system of Scotland County shall be known as and shall use the style of 'Scotland County School System' and the board of education shall be known as and shall use the style of 'Scotland County Board of Education'."

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of May, 1973.

H. B. 801

CHAPTER 307

AN ACT TO AMEND CHAPTER 832 OF THE SESSION LAWS OF 1969
AS IT APPLIES TO STOKES COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Section 12 of Chapter 832 of the 1969 Session Laws is hereby rewritten to read as follows:

"Sec. 12. Out of the total receipts derived from the operation of any alcoholic beverage control store created hereunder, after the payment of all cost and operating expenses and after retaining sufficient and proper working capital, the Walnut Cove Board of Alcoholic Control shall expend the sum of not less than five percent (5%) for law enforcement purposes. The remaining profits shall be distributed as follows:

(a) Fifty percent (50%) to the incorporated Town of Walnut Cove, North Carolina;

(b) Seven percent (7%) for education as to the effects of the use of alcoholic beverages;

(c) Thirty-eight percent (38%) to the general fund of Stokes County, North Carolina;

(d) Five percent (5%) to the Public Library of the incorporated Town of Walnut Cove, North Carolina."

Sec. 2. In all other respects, Chapter 832 of the Session Laws of 1969, is hereby affirmed.

Sec. 3. This act shall apply only to Stokes County.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of May, 1973.

H. B. 810 CHAPTER 308

AN ACT TO AMEND CHAPTER 1060 OF THE 1971 SESSION LAWS TO MAKE SAID CHAPTER APPLY TO THE CITY OF ASHEBORO.

The General Assembly of North Carolina enacts:

Section 1. Chapter 1060 of the 1971 Session Laws is hereby amended by rewriting Section 4 thereof to read as follows:

"Sec. 4. This act shall apply only to Durham County, Lee County, Mecklenburg County, Robeson County, Sampson County, Wayne County and the City of Asheboro."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of May, 1973.

H. B. 816 CHAPTER 309

AN ACT TO AMEND CHAPTER 713 OF THE SESSION LAWS OF 1965, BEING THE CHARTER OF THE CITY OF CHARLOTTE RELATING TO THE AUDITORIUM-COLISEUM-CIVIC CENTER AUTHORITY.

The General Assembly of North Carolina enacts:

Section 1. Sec. 5.22, Subchapter B of Chapter 5 of Chapter 713, Session Laws of 1965, as amended, is hereby further amended by the addition of the following sentence at the end of said section:

"The Authority shall be deemed a 'special district', as defined in G.S. 159-7, for purposes of the Local Government Budget and Fiscal Control Act and shall budget and administer its fiscal affairs according to the provisions of that act applicable to special districts."

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective July 2, 1973.

In the General Assembly read three times and ratified, this the 3rd day of May, 1973.

H. B. 939 CHAPTER 310

AN ACT PROVIDING FOR THE TIME OF ELECTION OF MEMBERS OF THE ASHEBORO CITY BOARD OF EDUCATION AND FIXING THEIR TERMS OF OFFICE.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 35 of the 1957 Session Laws, as amended by Section 2 of Chapter 172 of the 1969 Session Laws, is hereby rewritten as follows:

"Sec. 2. The Asheboro City Board of Education shall consist of 11 members elected for six-year terms. The election shall be held at the same time as provided by general law for the municipal elections for the City of Asheboro. At the election on November 6, 1973, four (4) members shall be elected for six-year terms. At the election on November 4, 1975, three (3) members shall be elected for six-year terms and at the election on November 8, 1977, four (4) members shall be elected for six-year terms. Thereafter, biennially there shall be elected members of the board to fill those vacancies created by expiration of the term of

office. Members shall take office on the first Monday in December following their election. The terms of all present members are extended until the first Monday in December following the election of their successors, or until their successors are elected and qualified. The elections shall be held and conducted by the Randolph County Board of Elections under the same provisions of Articles 23 and 24 of Chapter 163 of the General Statutes which are applicable to the election of municipal officers in the City of Asheboro.

Any vacancy occurring by reason of death, resignation or otherwise than by expiration of the term of office, shall be filled for the unexpired term by the appointment made by the remaining members of the board of education. No person shall be appointed to fill a vacancy who is a member of any political party if such appointment will increase the number of such persons of such political party who are members of the board to more than seven (7)."

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of May, 1973.

H. B. 1110

CHAPTER 311

AN ACT TO AMEND CHAPTER 101 OF THE 1973 SESSION LAWS CONCERNING THE COLUMBUS COUNTY PUBLIC SAFETY COMMISSION AND COUNTY POLICE FORCE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 101 of the Session Laws of 1973 is hereby amended by the addition of a new section, to be known as Section 21, to read as follows:

"Sec. 21. The following are hereby appointed members of the Columbus County Public Safety Commission and shall serve for a period of two years, in accordance with Section 1 of this act; Worth Stanly, G. E. 'Buddy' Byrd and Paul E. Nance. The following individual is hereby appointed a member of the Columbus County Public Safety Commission and shall serve for a period of four years in accordance with the terms of Section 1 of this act; Jesse Frank Graham. The following individual is hereby appointed a member, and Chairman, of the Columbus County Public Safety Commission, and in accordance with the terms of Section 1 of this act shall serve for a period of four years; E. Julius Elkins."

Sec. 2. Chapter 101 of the Session Laws of 1973 is hereby amended by adding a new section to be known as Section 22 to read as follows:

"Sec. 22. In the event any vacancy occurs on the Columbus County Public Safety Commission, because of death, resignation, or any other reason, and such vacancy occurs while the General Assembly is not in session, then those members of the current General Assembly, both Senate and House, residing in Columbus County, shall designate an individual to serve on the Columbus County Public Safety Commission for the remaining period of such vacancy. In the event that there are no members of the General Assembly, either Senate or House, residing in Columbus County, or after 10 days from the time such vacancy has occurred they are unable to decide on an individual to fill such

vacancy, then such vacancy shall be filled by the remaining members of the Columbus County Public Safety Commission."

Sec. 3. Chapter 101 of the Session Laws of 1973 is hereby amended by the addition of a new section to be known as Section 23, to read as follows:

"Sec. 23. All individuals employed by the Columbus County Public Safety Commission shall have their salaries set by the Columbus County Public Safety Commission; provided, however, that:

(1) The Chief of the Columbus County Police Force shall not receive less than nine hundred dollars (\$900.00) a month and be provided with a motor vehicle to be used on all official duties. Such motor vehicle shall also include all costs arising out of the use, operation, and maintenance of such motor vehicle.

(2) Police officers of the Columbus County Police Force shall receive not less than six hundred fifty dollars (\$650.00) per month and be provided with a motor vehicle to be used on all official duties. Such motor vehicle shall also include all costs arising out of the use, operation, and maintenance of such motor vehicle.

(3) In accordance with Section 15 of Chapter 101 of the Session Laws of 1973, if the Chief of Police deems it necessary to designate one policeman to serve as criminal investigator, then his salary shall not be less than seven hundred fifty dollars (\$750.00) per month plus he shall be provided with a motor vehicle to be used on all official duties. Such motor vehicle shall also include all costs arising out of the use, operation, and maintenance of such motor vehicle.

(4) In accordance with Section 4 of Chapter 101 of the Session Laws of 1973, the jailer shall be paid not less than five hundred fifty dollars (\$550.00) a month, and any assistant jailers not less than five hundred dollars (\$500.00) per month."

Sec. 4. Chapter 101 of the Session Laws of 1973, Section 6, is hereby amended by striking the word "men" as such appears in the second sentence of such section.

Sec. 5. Chapter 101 of the Session Laws of 1973, Section 4, is hereby amended by adding the following additional sentences at the end of said Section 4: "The jailer and assistant jailers shall have the same powers of arrest as the County policemen when performing their official duties and when called upon for assistance by the Chief or any policeman of the Columbus County Police.

The jailer and assistant jailers, before entering upon the discharge of their duties shall take and subscribe to the following oath:

'I, _____, do solemnly swear or affirm that I will support and maintain the Constitution and Laws of the United States and the Constitution and Laws of North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office as _____ so help me, God. (I do so affirm).'

The Public Safety Commission may require the jailer and each assistant jailer before entering on the duties of his office to enter into a bond with surety to be approved and filed with the Clerk of Court payable to the County in a sum set by the Public Safety Commission and conditioned for the faithful performance of his duties and for such damages as may be sustained by reason of his malfeasance in office or abusing his authority."

Sec. 6. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of May, 1973.

S. B. 85

CHAPTER 312

AN ACT TO PROVIDE FOR "PRELIMINARY" OR "ROAD SIDE" BREATH TEST FOR BLOOD ALCOHOL AND TO MAKE MANDATORY THE REVOCATION OF OPERATOR'S LICENSE IN EVENT OF REFUSAL TO PROVIDE BREATH SPECIMEN.

The General Assembly of North Carolina enacts:

Section 1. Article 2 of Chapter 20 of the General Statutes is hereby amended by adding a new section to be designated "§ 20-16.3" to read as follows:

"§ 20-16.3. *Preliminary breath test.*—Any law enforcement officer having reasonable grounds to believe that a person has been driving or operating a vehicle on a highway or public vehicular area while under the influence of intoxicating liquor may, without making an arrest, request that such person submit to a preliminary chemical breath test to be administered by the officer. The results of this test shall not be admissible in evidence and failure to submit to the test shall not constitute a violation of this Chapter. Nothing contained in this section shall be construed to prevent or require a subsequent chemical test pursuant to G.S. 20-16.2. The law enforcement officer requesting the test shall advise orally and in writing the person to be tested that his failure to take the test or his taking of the test shall not be construed to prevent or require a subsequent chemical test pursuant to G.S. 20-16.2.

No device may be used to give a chemical test under the provisions of this section unless it has been approved as to type and make by the State Board of Health."

Sec. 2. This act shall become effective on June 1, 1973.

In the General Assembly read three times and ratified, this the 4th day of May, 1973.

S. B. 233

CHAPTER 313

AN ACT TO PERMIT THE AVERY COUNTY BOARD OF COMMISSIONERS TO ISSUE FEE SIMPLE TITLE TO ANYONE PAYING REAL PROPERTY TAXES ON ANY PROPERTY DELINQUENT FOR FIFTEEN YEARS.

The General Assembly of North Carolina enacts:

Section 1. Article 26 of Chapter 105 of the General Statutes is hereby amended by adding a new section thereto to be designated as G.S. 105-375.1 and to read as follows:

"§ 105-375.1. Where tax liens upon real property have been duly purchased according to law by the Avery County taxing unit, upon the payment by a private purchaser of an amount equaling the sum of the most recent 15 years for each of which tax liens have been so purchased by the county, plus interest allowable by law, the Board of County Commissioners of Avery County shall assign said tax liens and by separate document cause to be issued to said purchaser title to the property by duly executed quitclaim deed. Provided however, that any time within seven years after said purchase of tax liens, any person formerly having an interest in the property may repurchase said property

from its current owner for an amount equal to the price as originally sold by Avery County, plus interest at nine percent (9%) per year."

Sec. 2. This act shall apply only to Avery County.

Sec. 3. This act shall become effective January 1, 1974.

In the General Assembly read three times and ratified, this the 4th day of May, 1973.

S. B. 282

CHAPTER 314

AN ACT TO AMEND CHAPTER 55A OF THE GENERAL STATUTES RELATING TO NON-PROFIT CORPORATIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 55A-12(c) is amended to read as follows:

"(c) If the statement purporting to effectuate such changes is not recorded in all the offices wherein recording is required by this section, persons asserting claims against the corporation may treat as the registered agent or registered office of the corporation either the one newly designated in the statement or the preexisting one."

Sec. 2. G.S. 55A-12 is further amended by adding thereto a new subdivision (e) to read as follows:

"(e) In lieu of the procedure set out in subsection (a) above the location of the registered office of a domestic corporation may be changed from one address to another in the same city or town in this State upon the change of the business office of its registered agent, upon the making and executing by the registered agent of such corporation of a certificate, duly acknowledged before an officer authorized by the laws of this State to take acknowledgments of deeds, setting forth the name of each corporation represented by such registered agent and the address at which such registered agent has maintained a registered office for each of such corporations and further certifying to the new address to which such registered office will be transferred on a given day and at which new address such registered agent will thereafter maintain the registered office of the corporations recited in the certificate. Such certificate shall be filed in duplicate in the office of the Secretary of State who shall then furnish a certified copy of the same, showing the date of such filing, and shall return the copy so certified to the registered agent, and the copy, certified as aforesaid, shall, within 60 days after the receipt by the registered agent be delivered to the register of deeds of the county wherein the corporation has its registered office, and, when the proper fees shall have been tendered, it shall be recorded and properly indexed in a book to be known as the Record of Incorporations. Promptly after the recordation, the register of deeds shall note the fact of recordation on the said copy and return it to the registered agent. The fee to be charged by the Secretary of State for the filing of such certificate shall be three dollars (\$3.00) for each corporation listed in said certificate, the total not to exceed two hundred dollars (\$200.00)."

Sec. 3. Chapter 55A of the General Statutes is amended by inserting a new Section G.S. 55A-24.1 therein to read as follows:

"§ 55A-24.1. *Informal or irregular action by directors or committees; attendance by telephone.*—(a) Action taken by a majority of the directors or members of a committee without a meeting is nevertheless board or committee action if written consent to the action in question is signed by all the directors or

members of the committee, as the case may be, and filed with the minutes of the proceedings of the board or committee, whether done before or after the action so taken.

(b) If a meeting of directors otherwise valid is held without proper call or notice, action taken at such meeting otherwise valid is deemed ratified by a director who did not attend unless promptly after having knowledge of the action taken and of the impropriety in question he files with the secretary or assistant secretary of the corporation his written objection to the holding of the meeting or to any specific action so taken.

(c) Unless otherwise provided in the charter or bylaws, any one or more directors or members of a committee may participate in a meeting of the board or committee by means of a conference telephone or similar communications device which allows all persons participating in the meeting to hear each other and such participation in a meeting shall be deemed presence in person at such meeting."

Sec. 4. Chapter 55A of the General Statutes is amended by inserting a new Section G.S. 55A-42.1 there to read as follows:

"§ 55A-42.1. *Merger or consolidation of domestic and foreign corporations.*—

(a) One or more foreign corporations and one or more domestic corporations may be merged or consolidated into a corporation of this State or of another state if such merger or consolidation is permitted by the laws of the state under which each such foreign corporation is organized.

(b) Each domestic corporation shall comply with the provisions of this Chapter with respect to the merger or consolidation, as the case may be, of domestic corporations and each foreign corporation shall comply with the applicable provisions of the laws of the state under which it is organized.

(c) If the surviving or new corporation, as the case may be, is a corporation of any state other than this State, it shall comply with the provisions of this Chapter with respect to foreign corporations if it is to transact business in this State; and if after the merger or consolidation it transacts no business in this State the courts of this State shall have jurisdiction in actions to enforce any obligation of any constituent corporation of this State arising out of any act or omission of such constituent corporation prior to the merger or consolidation, and process therein may be served as provided in G.S. 55A-68.

(d) The effect of such merger or consolidation shall be the same as in the case of the merger or consolidation of domestic corporations, if the surviving or new corporation is to be a corporation of this State. If the surviving or new corporation is to be a corporation of any state other than this State, the effect of such merger or consolidation shall be the same as in the case of the merger or consolidation of domestic corporations except insofar as the laws of such other state provide otherwise."

Sec. 5. G.S. 55A-44(b) is amended by adding a new sentence at the end thereof so that G.S. 55A-44(b) reads as follows:

"(b) Upon the adoption of such resolution by the members, or by the board of directors where there are no members or no members having voting rights, the corporation shall cease to conduct its affairs except insofar as may be necessary for the winding up thereof, shall immediately cause a notice of the proposed dissolution to be mailed to each known creditor of the corporation, and shall proceed to collect its assets and apply and distribute them as provided in this

Chapter. The corporation may follow the same procedure upon the expiration of any period of duration to which it is limited by its charter."

Sec. 6. Chapter 55A of the General Statutes is amended by inserting a new Section G.S. 55A-44.1 therein to read as follows:

"§ 55A-44.1. *Extension of duration after expiration.*—(a) If a corporation has continued to conduct its business after the expiration of its charter, it may at any time amend its charter so as to extend or perpetuate its period of existence. Expiration of a charter does not of itself create any vested right on the part of any member or creditor to prevent such charter amendment.

(b) No acts or contracts of a corporation during the period within which it could have extended its existence as permitted in this section, whether or not it has taken action so to extend its existence, shall be in any degree invalidated by the expiration of the charter."

Sec. 7. G.S. 55A-48 is amended by inserting therein a new subdivision (4) so that G.S. 55A-48 reads as follows:

"§ 55A-48. *Articles of dissolution.*—If the voluntary dissolution proceedings have not been revoked, then when all debts, liabilities and obligations of the corporation shall have been paid and discharged, or adequate provision shall have been made therefor, and all of the remaining property and assets of the corporation shall have been transferred, conveyed or distributed in accordance with the provisions of this Chapter, articles of dissolution shall be executed and filed in accordance with the provisions of G.S. 55A-4, setting forth:

- (1) The name of the corporation.
- (2) Where there are members having voting rights, a statement setting forth the date of the meeting of members at which the resolution to dissolve was adopted, that a quorum was present at such meeting, and that such resolution received at least two-thirds of the votes entitled to be cast by members present or represented by proxy at such meeting.
- (3) Where there are no members, or no members having voting rights, a statement of such fact, the date of the meeting of the board of directors at which the resolution to dissolve was adopted and a statement of the fact that such resolution received the vote of a majority of the directors in office.
- (4) Where the corporation was dissolved upon the expiration of its charter, a statement of such fact, in lieu of the statement required by subdivision (2) or subdivision (3) above.
- (5) That all debts, obligations, and liabilities of the corporation have been paid and discharged or that adequate provision has been made therefor.
- (6) That all the remaining property and assets of the corporation have been transferred, conveyed or distributed in accordance with the provisions of this Chapter.
- (7) That there are no suits pending against the corporation in any court, or that adequate provision has been made for the satisfaction of any judgment, order or decree which may be entered against it in any pending suit."

Sec. 8. G.S. 55A-68.1 is amended to read as follows:

"§ 55A-68.1. *Alternative jurisdiction over and service of process on foreign corporations.*—In addition to the provisions set out in this Chapter, foreign corporations may be served with process and subjected to the jurisdiction of the

courts of this State pursuant to applicable provisions of Chapter 1 and Chapter 1A of the General Statutes.”

Sec. 9. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 10. This act shall be in full force and effect on and after October 1, 1973.

In the General Assembly read three times and ratified, this the 4th day of May, 1973.

S. B. 699

CHAPTER 315

AN ACT TO INCLUDE CERTAIN PERSONNEL UNDER THE
PROVISION OF THE TEACHER FAIR EMPLOYMENT AND
DISMISSAL ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115-142 by adding a new section (p) to read as follows:

“(p) Notwithstanding any law or regulation to the contrary and the teachers’ salary schedule as adopted by the State Board of Education, this act shall apply to all persons defined as teachers by this act who serve as teachers in the following schools and institutions:

Cameron Morrison
Samuel Leonard
Richard T. Fountain
Juvenile Evaluation Center
C.A. Dillon
Dobbs School for Girls
Samarkand Manor
Stonewall Jackson

Sec. 2. All persons employed as teachers or principals in the schools and institutions listed in Section 1 herein shall be compensated at the same rate as are teachers in the public schools in accordance with the salary schedule adopted by the State Board of Education.

Sec. 3. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 4th day of May, 1973.

H. B. 9

CHAPTER 316

AN ACT TO AUTHORIZE A STATEWIDE REFERENDUM ON MIXED
BEVERAGES.

The General Assembly of North Carolina enacts:

Section 1. A new Article is hereby added to Chapter 18A of the General Statutes to read as follows:

“Article 3A

“Mixed Alcoholic Beverages

“§ 18A-32.1. *Definitions.*—The following terms used in this Article are defined as follows:

(1) ‘Alcoholic beverages’ are those beverages defined as alcoholic beverages in G.S. 18A-2(1).

(2) 'Auditorium' means a room, hall or building owned and operated by a municipality or other governmental unit used for public gatherings.

(3) 'Board' means the State Board of Alcoholic Control.

(4) 'Convention or civic center' means a structure or structures privately or publicly owned or leased and generally used for conventions, town meetings, entertainment or other similar functions which will accommodate at least 200 persons seated.

(5) 'Local ABC system' means an alcoholic beverage control system having at least one ABC store operated by a county or municipality, whether established and maintained pursuant to statewide or local act.

(6) 'Mixed beverages' means, for the purpose of this Article, a drink composed in whole or in part of alcoholic beverages and served to an individual in a quantity less than the quantity contained in a closed package and purchased for consumption on premises with mixed beverage permits issued pursuant to this Article.

(7) 'National guard armory' means any facility defined in G.S. 143-229 and actually used from time to time by a national guard unit.

(8) 'Permitted premises' include for on-premises consumption only of mixed beverages the following premises and no others:

- a. Social establishments which for the purpose of this Article are defined to be and to mean a corporation or association organized and operated solely for objects of a social, recreational, patriotic, or fraternal nature, with duly elected officers or directors, which require an application for membership and a minimum ten-day waiting period for election to membership, with minimum dues or charges to members of five dollars (\$5.00) per quarter year, which maintain current membership lists with the names and addresses of all members in good standing, which are not open to the general public and are open only to its bona fide members or the guests of bona fide members actually in the company of a bona fide member. The establishment must have a valid permit from the Board for this purpose.
- b. Special occasions establishments which include national guard armories, auditoriums, convention or civic centers as defined in this Article having a valid special occasion permit from the Board for this purpose and allowing consumption of mixed drinks only on special occasions. A special occasion means any meeting or gathering which is held infrequently as opposed to a regular or continuous operation of business.
- c. Restaurants and related places which shall have and maintain a Grade A health rating, have an inside dining area with a seating capacity of at least 36 persons, maintain and use the facilities for the preparation and serving of full cooked meals, and be engaged primarily and substantially in preparing and serving meals or furnishing lodging. The establishment must have and maintain a valid permit from the Board for this purpose and may sell mixed beverages only in rooms and areas of the premises as may be allowed by the Board in issuing such permit.

"§ 18A-32.2. *Elections*.—(a) No mixed beverages shall be sold in any county until and unless such sale has been authorized by the majority of the entire votes cast statewide in a referendum as herein provided at a special election to be held for said purpose as authorized by the General Assembly. Said referendum shall be held on November 6, 1973. The State Board of Elections

will print and distribute the ballots for such election. At said referendum, there shall be submitted to the voters of the State (under the same rules and regulations which apply to general elections, except that no absentee ballots or markers shall be permitted) the question of whether mixed beverages may be sold in this State in the counties which authorize such sales by the method provided in this Article. Those favoring the sale and consumption of mixed beverages in counties authorizing same shall vote for the issue: 'FOR sale and consumption of mixed beverages in counties which authorize such sales'. Those opposed to the sale and consumption of mixed beverages in counties authorizing same shall vote for the issue: 'AGAINST sale and consumption of mixed beverages in counties which authorize such sales'. If the majority of the entire vote cast statewide in such referendum shall be for the sale and consumption of mixed beverages in counties which authorize such sale, then any county in this State in which at least one county or municipal ABC store has been established may authorize the sale and consumption of mixed beverages pursuant to Subsection (b) of this Section.

If the majority of the entire votes cast statewide at the referendum shall be against the sale and consumption, then no mixed beverages shall be sold or consumed within the State pursuant to this Article.

(b) No mixed beverages shall be sold in any county until and unless such has been authorized in said county as provided herein; and in no event shall any mixed beverages be sold or consumed within any county under the provisions of this Subsection unless at least one county or municipal ABC store has been established within the county. If, by whatever means, there is no longer at least one county or municipal ABC store within a county, then the sale and consumption of mixed beverages shall be disestablished in such county.

The two methods for providing for the sale and consumption of mixed beverages within a county that otherwise qualifies are as follows:

(i) The Board of County Commissioners may petition in writing the State Board to establish the sale and consumption of mixed beverages within said county pursuant to this Article, and within ninety days the State Board shall thereafter establish the sale and consumption of mixed beverages within said county pursuant to this Article.

(ii) The eligible voters in said county may hold an election as herein provided.

The election shall be called in the county by the Board of Elections of the county only upon the written request of the Board of County Commissioners therein, or upon a petition to the Board of Elections signed by a number of voters of the county equal to at least twenty percent (20%) of the number of registered voters of the county according to the registration figures as certified by the Board of Elections on the date the petition is presented to the County Board of Elections.

The election shall be held under the same general laws, rules and regulations applicable to elections for county officers, insofar as practicable, except that no absentee ballots or markers shall be permitted. At this election there shall be submitted to the qualified voters of the county the question of whether mixed beverages shall be sold. Those favoring the sale and consumption of mixed beverages in the county shall vote for the issue: 'FOR sale and consumption of mixed beverages'. Those opposed to the sale and consumption of mixed beverages in the county shall vote for the issue: 'AGAINST sale and

consumption of mixed beverages'. If a majority of the votes cast in such election shall be for the sale of mixed beverages, then such beverages may be sold and consumed in said county as hereinafter provided. If a majority of the votes cast at the election are against the sale and consumption of mixed beverages, then no such beverages shall be sold and consumed in said county pursuant to this Article.

In calling the special election, the county Board of Elections shall give at least thirty (30) days' public notice of the election, and the registration books shall close at the same time as for a regular election. A new registration of voters for such special mixed beverage election is not required, and all qualified electors who are properly registered prior to the registration for the special election, as well as those electors who register for the special mixed beverage election, shall be entitled to vote in the election.

Unless otherwise specified in this section, the procedural requirements relating to the petition shall be as provided in G.S. 18A-52 (b), (c), (d), and (e), except the question shall be 'FOR' and 'AGAINST' the sale and consumption of mixed beverages.

The County Board of Elections shall certify the results of said election in writing and if a majority of the votes cast in such election shall be for the sale and consumption of mixed beverages within said county pursuant to this Article, the State Board shall within 90 days thereafter establish the sale and consumption of mixed beverages within said county pursuant to this Article.

(c) If any county, having authorized the sale and consumption of mixed beverages under the terms of this Article, hereafter under the provisions of this Article holds an election at which a majority of the votes are cast 'AGAINST' sale and consumption of mixed beverages, then within ninety (90) days from the canvassing of the vote and the declaration of the result thereof, all sales and consumption of mixed beverages under this Article shall cease.

The election shall be called in the county by the Board of Elections of the county only upon the written request of the Board of County Commissioners therein, or upon a petition to the Board of Elections signed by a number of voters of the county equal to at least twenty percent (20%) of the number of registered voters of the county according to the registration figures as certified by the Board of Elections on the date the petition is presented to the County Board of Elections.

In calling the special election, the county Board of Elections shall give at least thirty (30) days' public notice of the election, and the registration books shall close at the time as for a regular election. A new registration of voters for such special mixed beverage elections is not required, and all qualified electors who are properly registered prior to the registration for the special election, as well as those electors who register for the special mixed beverage election shall be entitled to vote in the election.

Unless otherwise specified in this section, the procedural requirements relating to the petition shall be as provided in G.S. 18A-52(b), (c), (d), and (e), except the question shall be 'FOR' and 'AGAINST' the sale and consumption of mixed beverages.

(d) No local county election under this section shall be held on the day of any biennial election for county officers, or within forty-five (45) days of such an election. The date of any elections held under this section shall be fixed by the Board of Elections of the county wherein the election is held. Provided,

however, an election pursuant to this section may be held on the same day as an ABC store election held pursuant to G.S. 18A-51. No other election shall be called and held in any of the counties in the State under the provisions of this section within three (3) years from the holding of the last election under this section.

(e) Notwithstanding the approval of the sale and consumption of mixed beverages within the State, no permitted premises, as defined in this Article, shall possess both a permit pursuant to the provisions of G.S. 18A-30(2) or (4) and a mixed beverage permit pursuant to this Article for the same premises at the same time.

“§ 18A-32.3. *Permits granted, suspended and revoked by State Board of Alcoholic Control.*—Upon approval by the voters of the State allowing mixed beverages to be sold, the Board is authorized to issue permits to any eligible and qualified person, firm or corporation for premises that meet the requirements provided in this Article.

No permit shall be issued to any person who:

- (1) has not resided within this State for a period of at least one year;
- (2) makes application for the premises for which a permit is sought located within fifty (50) feet of a church or a public school or child care center unless the Board determines upon proper investigation and hearing, if requested, that the premises is a suitable one and that the failure to issue a permit will result in undue hardship;
- (3) is not at least 21 years of age;
- (4) has been convicted or entered a plea of guilty or nolo contendere to a felony or other crime involving moral turpitude within the last three years;
- (5) has, within the two years next preceding the filing of the application, been convicted or entered a plea of guilty or nolo contendere regarding a violation of the prohibition or liquor laws, either State or federal;
- (6) has, within the three years next preceding the filing of the application, had any permit issued under Chapter 18A of the General Statutes or any permit or license pursuant to the laws of this or any other state to sell intoxicating liquor revoked;
- (7) has become insolvent or cannot demonstrate financial responsibility sufficient to meet adequately the requirements of the business of the type conducted on the permitted premises within the discretion of the Board.

If the applicant is a firm, association or partnership, the application shall state the matters herein listed with respect to each member or partner; if the applicant is a corporation, the application shall state the matters herein listed with respect to each of the officers and directors thereof, and any stockholder owning more than ten percent (10%) of the stock of the corporation and of any person who shall manage the premises for the corporation.

The Board shall have all powers in connection with granting, denying, suspending or revoking mixed beverage permits which the Board has in connection with malt beverage permits, wine permits or permits under G.S. 18A-30 authorized by State law. If the Board suspends or revokes a mixed beverage permit, any stay pending judicial review may be granted only as provided in G.S. 1A-1, Rule 65, and may not be granted under any other provision of law.

“§ 18A-32.4. *Rules and regulations.*—The Board shall have the power to

adopt rules and regulations for the implementation and enforcement of the provisions of this Article.

“§ 18A-32.5. *Hours of sale and consumption.*—Mixed beverages may be sold and consumed on the licensed premises only during the hours that it is lawful to sell and consume malt beverages in accordance with the provisions of Chapter 18A.

“§ 18A-32.6. *Reports and audits.*—All permittees under this Article shall keep such records concerning the purchase of intoxicating liquor, the sale of mixed beverages, and the sale of food and non-intoxicating liquor beverages, as may be prescribed by the Board to enable it to enforce the provisions of this Article. All such records shall be open for inspection by the Board or its authorized representatives at all times. Annually, within 60 days after the close of the fiscal year of the establishment, each permittee under this Article shall file with the Board, on forms prescribed by the Board, an audit of the establishment's operations for the preceding fiscal year, setting forth separately the amounts of:

(1) its gross receipts from the sale of food and non-intoxicating liquor beverages on the permitted premises;

(2) its gross receipts from the sale of mixed beverages as defined in this Article on the permitted premises; and

(3) its gross receipts from the sale of all other intoxicating liquor.

“§ 18A-32.7. *Prohibited acts.*—No permittee under this Article, nor any agent or employee of such permittee, shall:

(1) sell or serve any intoxicating liquor of any type other than as authorized by law, or

(2) sell any authorized intoxicating liquor to any person or at any place except as authorized by law, or

(3) allow at the place described in his permit the consumption of alcoholic beverages in violation of this Article, or

(4) keep at the place described in his permit any intoxicating liquor other than that which he is authorized to sell under permits issued to him by the Board, or

(5) misrepresent the brand of any alcoholic beverage sold or offered for sale, keep any alcoholic beverage otherwise than in the bottle or container in which it was purchased by him, refill or partly refill any bottle or container of alcoholic beverage or dilute or otherwise tamper with the contents of any bottle or container of alcoholic beverage, or

(6) sell or serve any brand of alcoholic beverage which is not the same as that ordered by the purchaser thereof without first advising such purchaser of the difference, or

(7) knowingly remove or obliterate any label, mark or stamp required under this Article to be affixed to any bottle or container of alcoholic beverage from which mixed beverages are offered for sale, or deliver or sell the contents of any bottles or containers on which such label, mark or stamp has been removed or obliterated, or

(8) employ, as a waiter or waitress serving mixed beverages, a person less than 18 years of age, in or about that portion of the licensed establishment used for the sale and consumption of alcoholic beverages, or

(9) serve mixed beverages to any person under 21 years of age, or

(10) knowingly allow any immoral, lewd, obscene, indecent or profane conduct, language, literature, pictures or materials on the permitted premises, or

(11) consume, or allow the consumption by an employee who is engaged in serving intoxicating liquor of any intoxicating liquor, or

(12) allow a person to retain possession of any bottle used in serving mixed beverages pursuant to this Article, or

(13) be intoxicated while on the permitted premises or employ an intoxicated person on the permitted premises, or

(14) allow an intoxicated person to loiter on the premises, or

(15) conceal any sale or consumption of alcoholic beverages, or

(16) fail or refuse to make samples of alcoholic beverages available to the Board upon request or obstruct agents of the Board or any law enforcement officer in the discharge of their duties, or

(17) store alcoholic beverages purchased under the permit in any unauthorized place or remove any such alcoholic beverages from the premises, or

(18) knowingly employ or retain in such employment in the permitted premises any person who has been convicted as a prostitute, homosexual, panderer, gambler, habitual law violator, user of or peddler of narcotics or other controlled substances, or person who drinks to excess, or

(19) keep on the permitted premises any gambling or gaming device, machine or apparatus, or permit gambling on the premises, or

(20) advertise the sale of alcoholic beverages on or off the permitted premises other than as permitted by the Board.

“§ 18A-32.8. *Purchase at ABC store; transportation.*—(a) All alcoholic beverages sold as mixed beverages in establishments issued permits under this Article shall be purchased by the permittee from a local ABC store located within the county in which the permitted premises are located.

Nothing in this Article shall be deemed to prohibit local ABC systems from designating a special store or location within the system to sell alcoholic beverages to be used for the sale of mixed beverages.

(b) It shall be lawful for any permittee under this Article to purchase, possess and transport alcoholic beverages to be used for the sale of mixed beverages from a county or municipal ABC store to a named destination within the county if the seals on the bottles and if the case or carton remain unbroken and if the permittee has in his possession a ‘purchase-transportation permit’ and complies strictly with the provisions of this section. The purchase-transportation permit shall be acquired from the chairman, a member, or the general manager or supervisor of the local ABC Board of the system from which the alcoholic beverages are purchased, or the general manager or supervisor of such ABC system store. The permit shall be signed by the person authorized to issue it, and it shall authorize the permittee named therein to purchase and transport the quantity of alcoholic beverages therein indicated. The permit shall be issued by means of a printed form with at least two carbon copies. On the face of the permit shall appear the following information:

(1) Name and address of permittee and registration number of the premises assigned by the Board;

(2) The name of the authorized agent of the permittee who purchases and transports said alcoholic beverages;

(3) The name and location of the place where purchase is to be made;

(4) The serial numbers affixed to each case or carton at the time of purchase;

- (5) Date issued and expiration date;
- (6) Destination;
- (7) Signatures of persons issuing and receiving the permit;
- (8) A statement that the permit is valid for only one purchase on the date shown and that the permit must accompany the merchandise during transit and both the merchandise and the permit must be exhibited by purchaser to any law enforcement officer upon request; and
- (9) Such further information as the Board may require.

The permit herein authorized shall be valid for only one purchase and it shall expire at 6:00 p.m. of the date shown thereon. No purchase based on this permit shall be made from any ABC store except the store named on the permit. The first carbon copy of the permit shall be retained by the permittee. One carbon copy shall be maintained by the board of the local ABC-system for a period of at least three years. The original shall be sent immediately to the State Board and maintained by them for a period of at least three years. The permit shall authorize the permittee to transport the alcoholic beverages from the place of purchase to the destination indicated thereon. The permit must accompany the merchandise during transit and both the merchandise and the permit must be exhibited to any law enforcement officer upon request. Permits shall be issued substantially in the form provided in G.S. 18A-28 for the transportation of alcoholic beverages.

“§ 18A-32.9. *Fees.*—An application for permit pursuant to this Article shall be accompanied by a fee payable to the State Board in the sum of three hundred dollars (\$300.00), which shall not be refundable in case the permit is denied, suspended or revoked. In addition, upon issuance of a permit pursuant to this Article, there shall be paid to the State Board an initial fee of three hundred dollars (\$300.00) for establishments having a capacity of fifty (50) seats or less, and an additional charge of five dollars (\$5.00) for each seat in excess of fifty (50) with a maximum fee of one thousand dollars (\$1,000). The annual renewal fee for such permits shall be fifty percent (50%) of the original permit as herein set forth. All permits shall be the property of the State Board and shall be surrendered upon request, and all permits shall expire on April 30 of each year.

All fees collected under this Article shall be deposited in the general fund of the State.

“§ 18A-32.10. *Additional charge for alcoholic beverages to be sold as mixed beverages; labels, marks to be affixed.*—Upon any purchase of alcoholic beverages to be used for the sale of mixed beverages pursuant to this Article, the permittee, in addition to the total price that would otherwise be due, shall pay to the ABC store the sum of five dollars (\$5.00) per gallon, which sums shall not be subject to any tax levied under G.S. 105-113.93 and G.S. 105-113.94. All such alcoholic beverages shall be purchased in containers containing either one-fifth of a gallon, one quart or one-half of a gallon, and at the time of such purchase the store shall affix to each container a special label or mark in a form to be approved by the State Board showing that the additional charge provided for in this section has been paid. The entire proceeds of the additional sum herein required to be paid and collected shall be paid monthly into the general fund of the county in which such ABC store is located. A report of such collections and payments shall be made on or before the fifteenth (15th) of each succeeding month to the State Board on forms or reports prescribed and furnished by said

Board. The sums so paid and collected shall not be included in calculating the profits of said ABC system for the purposes of G.S. 105-113.93.

“§ 18A-32.11. *Inspections.*—Every establishment holding permits under the provisions of this Article shall be subject to inspection by enforcement officers of the Board and any other State or local law enforcement officers. Such enforcement officers shall report to the Board, and to the county board where appropriate, any violations or apparent violations of the provisions of this Article or of any of the rules and regulations promulgated by the State Board pursuant thereto.

“§ 18A-32.12. *Suspension or revocation of permit.*—(a) If any permittee violates any of the provisions of this Chapter, or Chapter 105, or any rule or regulation promulgated under authority of either Chapter, or fails to superintend in person or through a qualified person, the business for which the permit was issued, or otherwise fails to carry out in good faith the purposes of this Chapter, the Board may revoke or suspend his permit.

(b) The Board may refuse to issue a permit, may refuse to renew a permit, or may suspend or revoke any permit issued pursuant to this Article, if, in the discretion of the Board, it is of the opinion that the applicant or permittee is not a suitable person to hold a permit or that the place occupied by the applicant or permittee is not a suitable place.

“§ 18A-32.13. *Violation a misdemeanor; revocation of permit by court.*—Any person who violates any of the provisions of this Article, or any rules or regulations promulgated by the Board pursuant thereto, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine or by imprisonment, or by both fine and imprisonment, in the discretion of the court. If any permittee is convicted of the violation of any of the provisions of this Article, or any of the rules or regulations promulgated pursuant thereto, the court in which such conviction occurs is empowered to, and may, immediately declare the permit revoked, and notify the Board accordingly.”

Sec. 2. The following clarifying amendments are made to Chapter 18A of the General Statutes in the event the result of the statewide election herein provided for is affirmative:

(1) G.S. 18A-13 is repealed;

(2) G.S. 18A-25(b) is amended by adding before the period “, except as provided in Article 3A of this Chapter”;

(3) G.S. 18A-29(a) is amended by adding after the parenthetical material: “, except as provided in Article 3A of this Chapter,”.

Sec. 3. If any provisions of this act or the application thereof to any person or circumstances are held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of May, 1973.

H. B. 472

CHAPTER 317

AN ACT TO INCORPORATE THE CITY OF HIGH SHOALS IN GASTON COUNTY SUBJECT TO AN ELECTION.

The General Assembly of North Carolina enacts:

Section 1. (a) The Board of Elections in Gaston County is hereby authorized to call and conduct a special election on such date as it shall determine for the purpose of submitting to the qualified voters for the area hereinafter described as the proposed corporate limits of the City of High Shoals, the question whether or not such area shall be incorporated as a municipal corporation known as the City of High Shoals. On the election day, the polls shall be open from 6:30 a.m. until 7:30 p.m. The Board of Elections of Gaston County in conducting the election required to be held herein shall follow the procedure as outlined in this act and Articles 23 and 24 of the General Statutes of North Carolina relating to municipal elections where not in conflict with this act.

(b) Not later than thirty (30) days prior to the date on which the registration books are required to be closed, the Board of Elections of Gaston County shall cause to be posted at the High Shoals Post Office, and at such other public places as the Board may choose, a notice stating the time, the polling place, and the purpose of the special elections; the names of the registrar and judges of election, the dates, hours, and place or places of registration. The Board of Elections may, in its discretion, also cause such notice to be published one or more times in a newspaper having general circulation in the High Shoals Community.

(c) In the special election, those voters who favor the incorporation of the City of High Shoals as provided in this act shall vote a ballot upon which shall be printed the words: "FOR *Incorporation of the City of High Shoals*", and those voters who are opposed to the incorporation of the City of High Shoals as provided in this act shall vote a ballot upon which shall be printed the words: "AGAINST *Incorporation of the City of High Shoals*".

Sec. 2. If a majority of the votes cast in such special election shall be cast "AGAINST *Incorporation of the City of High Shoals*", then "the Charter of the City of High Shoals" of this act shall have no force and effect.

Sec. 3. If a majority of the votes cast in such special election shall be cast "FOR *Incorporation of the City of High Shoals*", then "the Charter of the City of High Shoals" of this act shall be in full force and effect from and after the date upon which a certificate of election shall have been issued by the Chairman of the Gaston County Board of Elections in accordance with G.S. 163-301.

Sec. 4. The following provisions of law shall constitute the Charter of the City of High Shoals in Gaston County.

"THE CHARTER OF THE CITY OF HIGH SHOALS.

"ARTICLE I. INCORPORATION AND CORPORATE POWERS.

"Section 1.1. Incorporation and General Powers. The inhabitants of the area described in Section 2.1 of this Charter shall be and constitute a body politic and corporate under the name of the 'City of High Shoals', and shall be vested with all property which may be acquired by the City, and shall have and may exercise in conformity with this Charter all powers, functions, duties, rights, privileges, and immunities of every name and nature conferred on cities generally by the laws of North Carolina and of the United States.

"ARTICLE II. CORPORATE BOUNDARIES.

"Section 2.1. Corporate Boundaries. The corporate boundaries of the City of High Shoals, until changed in accordance with law are as follows:

BEGINNING at a stone, marked 'H.S.' on the South bank of the South Fork of the Catawba River, and a corner of the lands of John Abernethy, and runs thence South 2 degrees 40 minutes East 4070 feet to a stone marked 'H.S.' and pointers, a corner of the lands of James Abernethy; thence South 1 degree 30 minutes West 318.2 feet to a stake; thence North 87 degrees 49 minutes East 100 feet to a stake; thence North 1 degree 30 minutes East 200 feet to a stake, a corner of N.C. Highway 1605; thence South 87 degrees 49 minutes West 100 feet to a stake; thence North 87 degrees 30 minutes West 200 feet to a stake, the corner of N.C. Highway 1605 and U.S. Highway 321; thence South 1 degree 35 minutes West 279 feet to a concrete marker; thence South 38 degrees 15 minutes East across U.S. Highway 321, 750 feet to a stone, marked 'H.S.', a corner of the lands of C.P. Abernethy; thence South 68 degrees 7 minutes East 1642 feet to a stone, marked 'H.S.' in the line of the lands of C.P. Abernethy; thence North 62 degrees 32 minutes East 2425 feet to a stone, marked 'H.S.' on the South bank of the Catawba River; thence, North 66 degrees 15 minutes East 199 feet across the Catawba River in the line of the lands formerly known as the Black lands; thence North 20 degrees 12 minutes East 810 feet to a stone, marked 'H. S.', a corner of the lands formerly known as Black lands; thence North 87 degrees 30 minutes East 1242 feet to a stone, marked 'H. S.'; thence North 31 degrees 25 minutes East 2382 feet to a stone, marked 'H. S.'; thence North 82 degrees 5 minutes West 1497 feet to a stone, marked 'H. S.'; thence North 1 degree West 769 feet, crossing a branch to a stone, marked 'H. S.'; thence North 56 degrees 45 minutes East 688 feet to a stone, marked 'H. S.', a corner of the O. D. Carpenter lands; thence North 25 degrees 30 minutes East 1085 feet to a stone marked 'H. S.', a corner of the O. D. Carpenter lands; thence North 57 degrees 45 minutes West 1365 feet to a stone, marked 'H. S.'; thence North 33° East 220 feet to a stone, not marked; thence North 33 degrees 20 minutes East 1397 feet to a stone, marked 'H. S.', Garrison's Corner; thence North 76 degrees 25 minutes West 3165 feet to a stone, marked 'H. S.', a corner of the lands of Harry Robinson; thence North 76 degrees 45 minutes West 817 feet to a stone, marked 'H. S.', another corner of the lands of Harry Robinson; thence South 67 degrees 30 minutes West 1965 feet crossing a branch to a stone, marked 'H. S.', a corner of the Yarborough lands; thence South 55 degrees 33 minutes West 999 feet to a stone marked 'H. S.'; thence South 43 degrees 15 minutes West 1684 feet to the North bank of the South Fork of the Catawba River; thence in a southeasterly direction along the North bank of the South Fork of the Catawba River, approximately 1035 feet to a stone, marked 'H. S.', thence South 50 degrees 20 minutes West 190 feet across the River to the beginning.

"ARTICLE III. MAYOR AND BOARD OF COMMISSIONERS.

"Section 3.1. Temporary Officers. Until the initial election provided for by Section 4.1 of this Charter, Jack Whitener is hereby appointed Mayor, and Ray Metcalf, Bill Wehunt, Charles Alexander, Mae Moore, Gerald Waycaster, and Bobby Rice, are hereby appointed Councilmen of the City of High Shoals, and

they shall possess and may exercise the powers granted to the Mayor and City Council until their successors are elected and qualify pursuant to this Charter.

"Section 3.2. Mayor and Mayor Pro Tempore. The Mayor shall be elected by the City Council from its own members, and he shall hold office for two (2) years. In the case of a vacancy in the office of Mayor, the remaining members of the City Council shall choose from their own number his successor for the unexpired term. The Mayor shall be the official head of the City government and shall preside at all meetings of the City Council. When there is an equal division by the Council upon any question (including the appointment of officers), the Mayor shall determine the matter by his vote, and shall vote in no other case. The Mayor shall exercise such powers and perform such duties as are or may be conferred upon him by the general laws of North Carolina, by this Charter, and by the ordinances of the City. The City Council shall choose one of its members to act as Mayor Pro Tempore, and he shall perform the duties of the Mayor in the Mayor's absence or disability. The Mayor Pro Tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the Council.

"Section 3.3. Composition of City Council. The City Council shall consist of seven members to be elected by and from the qualified voters of the City voting at large in a nonpartisan election in the manner provided by Article IV.

"Section 3.4. Terms. Except for the terms of office as specified in Section 3.1 and Section 4.1 herein, the members of the City Council shall serve for terms of four (4) years.

"Section 3.5. Meetings of Council. The City Council shall hold a regular meeting at least monthly.

"Section 3.6. Quorum. A majority of the members elected to the City Council (including the Mayor) constitute a quorum for the conduct of business, but a lesser number may adjourn from time to time and compel the attendance of absent members in such manner as may be prescribed by ordinance.

"Section 3.7. Enacting Clause. The enacting clause of all City ordinances shall be: 'Be it ordained by the City Council of the City of High Shoals.'

"ARTICLE IV. ELECTIONS.

"Section 4.1. Regulation of Elections. All municipal elections shall be conducted in accordance with the general laws of North Carolina relating to municipal elections, except as otherwise provided herein.

"Section 4.2. Determining the Results of City Elections. All elections for members of the City Council shall be conducted on a nonpartisan basis and decided by a plurality of the votes cast as provided by Section 163-292 of the General Statutes of North Carolina.

"Section 4.3. Staggered Terms. In the regular municipal election to be held in 1973, there shall be elected seven (7) Councilmen. The four (4) candidates receiving the highest number of votes shall be elected for terms of four (4) years and the three (3) candidates receiving the next highest number of votes shall be elected for terms of two (2) years. Beginning in the regular municipal election in 1975, and biennially thereafter, terms shall be for four (4) years.

"ARTICLE V. ADMINISTRATION.

"Section 5.1. Form of Government. Until otherwise provided, the City of High Shoals shall operate under the mayor-council form of government as provided in Article 7, Part 3, Chapter 160A of the General Statutes of North Carolina. The City Council may at any time by ordinance adopt the council-

manager form of government as provided in Article 7, Part 2, Chapter 160A of the General Statutes of North Carolina.

"ARTICLE VI. FINANCE.

"Section 6.1. Taxation. The territory within the corporate limits, and its citizens and property, shall be subject to municipal taxes levied by the City for the fiscal year 1973-74 and subsequent years.

"ARTICLE VII. CLAIMS AGAINST THE CITY.

"Section 7.1. Tort Claims. All claims or demands against the City arising in tort shall be presented to the City Council in writing, signed by the claimant or his attorney or agent, within ninety (90) days after such claim or demand is due or the cause of action accrues. No suit or action shall be brought on such a claim or demand within thirty (30) days or after the expiration of twelve (12) months from the time such claim or demand is presented. Unless the said claim or demand is so presented within ninety (90) days, and unless suit is brought within twelve (12) months thereafter, any action thereon shall be barred.

"ARTICLE VIII. ANNEXATION.

"Section 8.1. Annexation. No ordinance of annexation adopted by the governing body of the City of High Shoals pursuant to G.S. 160-445 shall become effective until the governing body has called a simultaneous election in the area to be annexed and within the City of High Shoals on the question of the proposed annexation and there has been a favorable majority vote for annexation in that election.

"Section 8.2. The annexation provisions contained in Parts 2 and 3 of Article 36 of Chapter 160 of the General Statutes shall not be applicable to the City of High Shoals in Gaston County."

Sec. 5. If any provision of this act or the application thereof to any person or circumstances is held invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions or application of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 6. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 7. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 4th day of May, 1973.

H. B. 647

CHAPTER 318

AN ACT TO AMEND THE CHARTER OF THE TOWN OF SYLVA TO REGULATE THE PRESENTATION OF CLAIMS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 72, Private Laws of 1899, is amended by adding a new section, to be designated Section 29, to read:

"Sec. 29. All claims or demands against the Town of Sylva arising in tort shall be presented to the governing body of the Town or the Mayor, in writing, signed by the claimant, his attorney or agent, within sixty (60) days after the claim or demand is due or the cause of action arose. No suit or action shall be brought within ten (10) days or after the expiration of twelve (12) months from the time the claim is presented. If the claim is not presented within sixty (60) days

after the claim or demand is due or the cause of action arose, and if suit is not instituted within twelve (12) months thereafter, the claim and action thereon shall be barred.”

Sec. 2. This act shall apply to claims and actions arising after the ratification of this act.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of May, 1973.

H. B. 782

CHAPTER 319

AN ACT TO AMEND THE CHARTER OF THE CITY OF RALEIGH AND TO REPEAL OBSOLETE LOCAL ACTS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 1184 of the Session Laws of North Carolina, 1949, as amended, the Charter of the City of Raleigh, be and the same is hereby further amended as follows:

(a) That Section 3, captioned, “Corporate Limits,” and relating to that subject, be and the same is hereby amended to read as follows:

“The corporate boundaries of the City shall be those existing at the time of the ratification and effective date of this Charter and as the same may be altered from time to time in accordance with applicable laws and illustrated by a map on file in the Raleigh Municipal Building. In lieu of maintaining a written metes and bounds description of the corporate limits of the City, the City Council shall approve a map showing the then current corporate boundaries of the City and the electoral districts therein, from and after which time such map shall constitute the official map of the corporate boundaries and electoral districts of the City, as such map may be officially revised from time to time by appropriate action of the City Council. The Planning Director, in consultation with the Chief Engineer, shall draw the original map for City Council approval and shall revise such map as the City Council authorized revisions thereto by appropriate action. From time to time, when additional territory shall have been annexed in accordance with law so as to become part of the municipal territory of the City of Raleigh, and from time to time when the electoral districts of the City shall have been revised and re-established in accordance with law, the official map of the corporate boundaries and electoral districts shall be revised accordingly and, as so revised, shall be presented to the City Council for appropriate action. Such revised map, when duly approved by the City Council, shall thereupon become the official map of the City of Raleigh and shall supersede all prior maps of the corporate boundaries and electoral districts of the City. All such prior official maps shall be preserved as public records and kept on file by the City Clerk, and shall be subject to public inspection during regular office hours. The latest official map, properly identified and bearing the certificate of the City Clerk evidencing its approval by the City Council and stating the date of such action by the City Council, shall be kept on file in the office of the City Clerk and shall be subject to public inspection during the regular office hours of the City Clerk’s office. Copies of the official map reproduced by any method of reproduction that gives legible and permanent copies, when certified by the City Clerk, shall be admissible in evidence in all

courts and shall have the same force and effect as the original map from which the copy is made.”

(b) That Section 9, captioned, “Number and Election of Members of City Council,” and relating to that subject, be and the same is hereby amended to read as follows:

“The City Council shall consist of eight (8) members, including the Mayor of the City.

The mode of election of the City Council and Mayor shall be as follows:

(1) The City Council shall divide the City into five (5) electoral districts and shall cause a map of the districts to be prepared and filed as provided by G.S. 160A-22 and 160A-23; one member of the City Council shall be apportioned to each district so that each member represents the same number of persons as nearly as possible, except for the members apportioned to the City at large; and the qualified voters of each district shall nominate and elect candidates who reside in the district for the seat apportioned to that district.

(2) The qualified voters of the City shall nominate and elect two (2) candidates apportioned to the City at large.

(3) The Mayor of the City of Raleigh shall be elected by all the qualified voters of the City of Raleigh.

The method of election of the City Council of the City of Raleigh shall be a nonpartisan primary and election to be conducted as provided in G.S. 163-294.

Each member of the City Council and the Mayor shall be elected for a term of two years and until his successor is elected and qualified.

Vacancies in the City Council shall be filled by the Council for the remainder of the unexpired term.

Vacancies in the office of Mayor shall be filled by the Council from their own number for the remainder of the unexpired term.”

(c) That Section 10 captioned, “Power and Organization of City Council,” and relating to that subject be and the same is hereby rewritten to read as follows:

“All legislative powers of the City shall be vested in the City Council. The City Council shall meet following their election as provided in the general law and shall select such officers as may be provided in this Charter or by general law. At that time, the Mayor, Mayor Pro Tempore and other members of the City Council shall take and subscribe the oath of office as provided by law. Any such officer not present at this time may take and subscribe the oath at a later time.”

(d) That Section 12, captioned, “Quorum and Conduct of Business,” and relating to that subject, be and the same is hereby amended to read as follows:

“Five members of the City council shall constitute a quorum.

The Mayor shall have the right to vote on all questions before the City Council. When there are equal numbers of votes in the affirmative and in the negative and the Mayor has already voted, he shall not have an additional vote. The Mayor shall have no power to veto.

The Mayor, who shall be the official head of the City, shall, if present, preside at all meetings of the City Council. In the absence of the Mayor, the Mayor Pro Tempore shall preside. In the absence of both, a Chairman Pro Tempore shall be chosen.

The City Clerk and Treasurer shall be ex officio clerk of the City Council and shall keep accurate minutes of its proceedings. In case of his temporary absence

or in case of a vacancy in the office, the City Council may elect a temporary clerk who shall be sworn to the faithful performance of his duties and may act as clerk of the City Council until a City Clerk is chosen and qualified. The City Council may elect assistant clerks, who shall be sworn to the faithful performance of their duties and may act as clerks of the City Council in the absence of the City Clerk.

All final votes of the City Council involving the expenditure of fifty dollars (\$50.00) or over shall be by ayes and noes and shall be entered in the minutes.

Five affirmative votes, at least, shall be required for the passage of any motion, order, ordinance, resolution, or vote."

(e) That Section 19, captioned, "Election of Mayor," and relating to that subject, to the term of the Mayor's office, and to filling vacancies in the office of Mayor, be and the same is hereby repealed.

(f) That Section 20, captioned, "Salaries of Mayor and Council," and relating to that subject, be and the same is hereby recaptioned, "Compensation and Allowances Paid to Council and Mayor," and amended to read as follows:

"The compensation paid to the members of the City Council and the Mayor for their services may be fixed, from time to time, by the Council as provided in G.S. 160A-64."

(g) That Section 22, captioned, "Express Powers Enumerated," and subdivision (3) thereof, captioned, "Adopt Ordinances, Etc., for Proper Government; Prescribe Punishment for Violation," and relating to those subjects be and the same is hereby amended to read as follows:

"To make, adopt, and pass such ordinances, resolutions, motions, rules and regulations consistent with the laws of the land and necessary or expedient for the proper government of the City, with full power and authority to provide for the execution of the same by imposition, as punishment for the violation thereof, of fines and imprisonment and by the imposition of penalties and forfeitures as by law provided."

(h)(1) That Section 22, captioned, "Express Powers Enumerated," and relating to that subject, be and the same is hereby amended by adding a new subdivision to be numbered and captioned and to read as follows:

"(69) *Combat drug abuse.* To provide, through the creation or designation of an administrative department or City committee, commission, or board, for the prevention and treatment of narcotic, barbituric and other types of drug abuse and addiction and to appropriate funds to provide education, medication, medical care, hospitalization and outpatient housing in connection therewith, alone or jointly with Wake County."

(h) (2) That Section 22, captioned, "Express Powers Enumerated," and relating to that subject, be and the same is hereby amended by adding a new subdivision, to be numbered and captioned and to read as follows:

"(70) *Engage in socio-economic programs.* (a) Subject to the conditions hereinafter set forth, the City of Raleigh, through its governing body, shall have the power to undertake, endorse, administer, operate and maintain and to expend federal tax revenues returned to the City under the designation of general or special revenue sharing funds, or any other title, and consistently with the terms under which such funds are returned, for 'social-economic public improvement programs' and 'crime prevention programs,' including but not being limited to those initiated pursuant to the provisions of the Federal

Economic Opportunity Act (42 U. S. C. §§2701 et seq.) for the purpose of serving the public interest and well-being of the community and its citizens.

(b) The City Council may appoint such committees or boards as it may deem necessary in carrying out such programs and may authorize the employment of personnel. In undertaking and engaging in such programs, the City Council may enter into contracts with and accept grants from appropriate branches of the State and federal governments.

(c) For the purposes of this section, a 'social, economic public self-improvement program' shall be defined as one devoted to and designed toward improving and promoting the general well-being of certain classes of citizens, without regard to race, religion, sex or national origin, in their human and economic relationship with society including but not limited to programs in areas of employment, youth, elderly, affording equality or opportunity, promotion of communication, understanding and good will, and other areas of social and economic significance related thereto.

For the purposes of this section, a 'crime prevention program' shall mean any type of citizen participation program primarily designed as a deterrent to crime and for the purpose of reducing the level and the magnitude of crime in the City; any such program shall be coordinated with the general efforts of the law enforcement agency of the City of Raleigh to minimize the occurrences of crime in the community.

(d) The powers expressed herein are not intended to nor shall they encroach in any manner upon the powers, duties and responsibilities of Wake County in any health, social, educational or welfare programs being administered by said county."

(i) That Section 29, captioned, "City Council Appointments," and relating to that subject, be and the same is hereby amended to read as follows:

"The City Council shall appoint and employ and may discharge and remove the City Clerk, the City Treasurer, the City Clerk and Treasurer (when duties of City Clerk and City Treasurer are combined and conferred and imposed upon one officer), the City Attorney, and the auditor or such public accountant as may be deemed proper for the auditing of the accounts of the City; and the City Council shall likewise fill vacancies on or make appointments to such boards, commissions, or committees as the governing body of the City of Raleigh is authorized or permitted by law or ordinance to fill or appoint; provided, that the officers named in this section, when appointed by the City Council and qualified, shall hold office and serve at the pleasure of the City Council."

(j) That Sections 34 through 53, dealing with the general subject of municipal elections and appropriately captioned as to applicable law, time of primary, nomination of candidates, primary ballots, canvass of primary returns, date of election and number of Councilors, election ballots, special elections, absentees, registration, election official compensation, registrar appointment, bribery prohibition, statements of expenses and filling of vacancies be and the same are hereby repealed in their entirety with the exceptions of Section 43, captioned, "Recall of Officials by the People," and Section 48, captioned, "Removal from City Creates Vacancy," which are not repealed.

(k) That a new section be added which shall be numbered 34, captioned, "Conduct of Elections," and which shall read as follows:

"All nominations, primary elections, general elections and special elections in the City shall be held, conducted, supervised and governed by and pursuant to

the provisions of Chapter 163, Elections and Election Laws, and Subchapter IX thereof, Municipal Elections, of the General Statutes of North Carolina, with the exception of G.S. 163-303, relating to the nonapplicability of campaign expense regulations in nonpartisan elections and except as otherwise provided by this act.

All nominations and elections in the City shall be subject to the provisions of Chapter 163, Elections and Election Laws, and Subchapter VIII thereof, Criminal Offenses, including, but not being limited to, the sections of the General Statutes numbered G.S. 163-259 through G.S. 163-278."

(l) That Section 43 captioned, "Recall of Officials by the People," be renumbered as Section 35 and that in the first sentence the following words and punctuation be deleted: ", except Judge of the City Court of Raleigh."

(m) That Section 48, captioned, "Removal from City Creates Vacancy," and relating to that subject, be renumbered Section 36, be recaptioned, "Removal of Residence," and be amended to read as follows:

"In the case of removal of residence of any elective officer from the territorial limits of the City, such removal shall, ipso facto, create a vacancy in his office.

In the case of removal of residence of any officer elected to represent a specific electoral district from the electoral district for the representation of which he was elected, such removal shall, ipso facto, create a vacancy in his office."

(n) That a new section be added to be numbered Section 37, to be captioned, "Occurrence of Vacancies," and to read as follows:

"All vacancies in elective offices shall be permanent and shall occur upon the death, removal of residence, other disqualification (such as that associated with a violation of the law), or disability of the elective officeholder. For this purpose, a person shall be deemed to be disabled if, as a result of the certification of a physician, or as a result of an independent investigation by the City Council, it determines that a member is too infirm, either physically or mentally, to discharge his duties adequately and consistently. A member shall also be deemed to be disabled when he fails to attend six consecutive regular meetings of the City Council.

A person appointed to fill a vacancy on the City Council, due to disqualification or disability, shall be clothed with all the authority and powers given under the laws of North Carolina to such office; but the officer so chosen, shall be subject to recall as any other officer."

(o) That Section 51 captioned, "City Council to Fill Vacancy," be amended by deleting the words and punctuation: ", Judge of the City Court,".

(p) That Section 59, captioned, "Same - Duties of the City Attorney," and relating to that subject, be and the same is hereby amended to read as follows:

"It shall be the duty of the City Attorney to prosecute and to defend all suits-at-law or in equity in which the City of Raleigh may become the plaintiff or defendant in any such suit; to render advisory opinions to the Mayor, the City Council, the City Manager, and the heads of the various departments of the City, provided, that such request for advice be made in writing and signed by the person requesting said advice; and it shall be his duty, when required to do so, to attend the meetings of the City Council and to prepare such deeds, contracts, bonds and other legal papers as may be required for the City's business, and to perform such other services of a legal nature as required by the City Council. The City Council may also appoint one or more Associate City Attorneys whose compensation shall be fixed by the Council and who shall serve at the pleasure of

the Council; it shall be the duty of the Associate City Attorneys to assist the City Attorney as required by the City Attorney or by the City Council. It shall be the duty of the City Attorney and the Associate City Attorneys to institute and handle all civil actions and proceedings required for the foreclosure of liens against real estate on account of delinquent taxes and/or assessments for special improvements, when requested to take such action by the City Tax Collector or by the City Council. The City Council shall have power and authority to employ additional counsel in special cases when considered expedient by a majority of the City Council."

(q) That Section 82 captioned, "Police Department - Created, Personnel," and relating to that subject, be and the same is hereby amended to read as follows:

"There is hereby created, within the Department of Public Safety, a Police Department (or division), which shall be composed of a Chief of Police, under the Director of Public Safety, and such other officers and employees as shall be deemed necessary by the City Council. The salaries of the Chief of Police and of the other officers and employees of the department or division shall be fixed by the City Council. The Chief of Police may or may not be chosen from the officers of the Police Department."

(r) That Section 83, captioned, "Same - Powers and Duties of Chief of Police and Members of Department," be and the same is hereby amended to read as follows:

"The Chief of Police, acting under the Director of Public Safety, shall have the supervision and control of the police force, and it shall be his duty to report to the Director of Public Safety any failure of duty on the part of any member of the police force. It shall be the duty of the Chief of Police to see that all laws and ordinances of the City are enforced and to do all such things that may be required of him by ordinances adopted by the City Council or by the Director of Public Safety. The Chief of Police and each member of the police force shall have the same power and authority as are vested in Sheriffs and Constables for the preservation of the peace of the City; such power and authority to be exercised by them not only in the corporate limits, but within all territory extending one mile in all directions from and beyond the corporate limits of the City (and on any rights-of-way, easements, or property of the City without the corporate limits). They shall execute all process legally directed to them by any court and in the execution thereof shall have the same powers that Sheriffs and Constables have in the discharge of like duties.

The City Council may make rules and regulations for the government and direction of the police officers of the City or may delegate such power to the Director of Public Safety. The City Council may require the entire police force to wear badges, and to be so armed and uniformed as to be readily recognized by the public as peace officers; provided, that the Director of Public Safety, or the Chief of Police, when either deems it necessary, may authorize any such officer to be on duty in plain clothes. The police of the City shall have power to do whatever may be necessary to preserve the good order and peace of the City and secure the inhabitants from personal violence and their property from loss or injuries.

When funds shall have been appropriated for the purpose, and when considered expedient and in the public interest, the Chief of Police, subject to the approval of the City Manager, may employ temporarily, for a period of time

not to exceed twelve months, persons to obtain information regarding criminal activity within the City; provided, however, that there shall not be any re-employment of any such person at any time within a period of thirty days immediately following the termination of a previous term of such temporary employment; provided, further, that such persons so employed may, but shall not be required to, take and subscribe the same oath required of regular police officers of the City and if so sworn, shall have all the powers, authority, and duties of regular police officers of the City; provided further that such persons so employed shall not be subject to the Civil Service Act applicable to policemen and firemen of the City. Such persons so employed shall be subject to the orders and direction of the Director of Public Safety, Chief of Police and the City Manager.

The Director of Public Safety, Chief of Police, and each member of the police force, before entering upon the discharge of the duties of his office, shall be required to take and subscribe before the Mayor, or some other officers authorized to administer oaths in such cases, the oath prescribed for public officers, and an oath that he will faithfully and impartially discharge the duties of his office according to law, which said oath shall be filed with the City Clerk and entered into the book with the oaths of the members of the City Council and other officers of the City."

(s) That Section 98, captioned, "Zoning and Planning - Department of Planning," and relating to that subject and subsection (e) thereof, be and the same is hereby amended to read as follows:

"The Director of Planning shall consult with and advise and otherwise cooperate with the members of the City Planning Commission."

(t) That Section 99, captioned, "Same - Planning Commission," and relating to that subject, and subsection (a) thereof, be and the same is hereby amended to read as follows:

"There is hereby created the City Planning Commission of the City of Raleigh, which shall consist of five (5) members who shall be appointed by the City Council from among the citizens of the City (none of whom shall hold any other public office or position with the City), whose terms shall be four years. Any vacancy during the unexpired term of any member shall be filled by the City Council for the remainder of the term. The member shall serve without compensation, except that the City Council may prescribe and authorize the payment of a per diem allowance for attendance upon meetings not to exceed ten dollars (\$10.00) per member, per meeting."

(u) That Section 104, captioned "Condemnation Powers and Procedures," and relating to that subject be and the same is hereby amended to read as follows:

"In addition to the foregoing powers and as alternative powers and methods of procedure for the exercise of the power of eminent domain, the City of Raleigh is hereby authorized to use, in the exercise of the power of eminent domain for any lawful purpose, the procedure and authority prescribed in Article 9 of Chapter 136 of the General Statutes of North Carolina, as now or hereafter amended; provided, that whenever therein the words 'Commission' or 'Highway Commission' or 'State Highway Commission' appear, they shall be deemed to include the 'City of Raleigh,' and whenever therein the words 'Director', 'Chairman', or 'Director of Highways', or 'Director of the Highway

Commission' or 'Chairman of the Highway Commission' appear, they shall be deemed to include the 'City Manager'.

The exercise of eminent domain power under this section shall not apply to property of public utilities."

Sec. 2. The following laws relating to the Raleigh City Court be and the same are hereby repealed:

Chapter 706, Public-Local Laws of 1913; Chapter 353, Public-Local Laws of 1915; Chapter 1093, Session Laws of 1949; Chapter 470, Session Laws of 1951; Chapter 165, Session Laws of 1955; Chapter 340, Session Laws of 1957; Chapter 700, Session Laws of 1957; Chapter 837, Session Laws of 1959; Chapter 629, Session Laws of 1961; Chapter 366, Session Laws of 1963; and Chapter 600, Session Laws of 1965.

Sec. 3. No portion of this act shall be intended to affect the term of office of any person holding office in the City of Raleigh on the effective date hereof until his successor is elected and qualified in accordance with the provisions of this act.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of May, 1973.

H. B. 858

CHAPTER 320

AN ACT TO PROVIDE A SUPPLEMENTAL RETIREMENT FUND FOR FIREMEN IN THE CITY OF CHERRYVILLE AND TO MODIFY THE APPLICATION OF G.S. 118-5, G.S. 118-6, AND G.S. 118-7 TO THE CITY OF CHERRYVILLE.

The General Assembly of North Carolina enacts:

Section 1. Supplemental retirement fund created. The Board of Trustees of the Local Firemen's Relief Fund of the City of Cherryville, as established in accordance with G.S. 118-6, hereinafter called the Board of Trustees, shall create and maintain a separate fund to be called the Cherryville Firemen's Supplemental Retirement Fund Number Two, hereinafter called the Supplemental Retirement Fund Number Two, and shall maintain books of account for such funds separate from the books of account of the Firemen's Local Relief Fund of the City of Cherryville, hereinafter called the Local Relief Fund. The Board of Trustees shall pay into the Supplemental Retirement Fund Number Two the funds prescribed by this act.

Sec. 2. Transfers of funds and disbursements. Notwithstanding the provisions of G.S. 118-7, the Board of Trustees of the Local Firemen's Relief Fund of the City of Cherryville shall:

(a) Prior to July 1, 1973, transfer to the Supplemental Retirement Fund Number Two all funds provided by the City Council, in its discretion, from the General Fund of the City;

(b) In each subsequent calendar year, the City Council may, in its discretion, transfer to the Supplemental Retirement Fund Number Two such funds as it may deem necessary as supplemental retirement benefits in accordance with Section 3 of this act;

(c) Beginning in July, 1973, and as soon as practical after the first day of each month, but in no event later than the fifth day of each month, disburse funds in

the Supplemental Retirement Fund Number Two as supplemental retirement benefits in accordance with Section 3 of this act.

Sec. 3. Supplemental retirement benefits. (a) Each fireman, either full-time or part-time, of the City of Cherryville who retired prior to July 1, 1971, who had then attained the age of 55 years with 20 years' service or more as a city fireman, shall be entitled to and shall receive in each calendar month, beginning January 1, 1973, a monthly supplemental retirement benefit equal to two dollars (\$2.00) for each full year of service as a fireman of the City; provided, in the event, in any calendar month, funds in the Supplemental Retirement Fund Number Two are not available to pay a benefit equal to two dollars (\$2.00) for each full month of service as a fireman of the City, the Board of Trustees shall specify a lesser amount to be paid; or at the discretion of the City Council sufficient funds may be transferred from the General Fund to perpetuate full benefits.

(b) In no event shall any retired fireman be entitled to or receive in any year an annual benefit in excess of six hundred dollars (\$600.00).

Sec. 4. Investment of funds. The Board of Trustees is hereby authorized to invest any funds, either of the Local Relief Fund or of the Supplemental Retirement Fund Number Two, in any investment named in or authorized by G.S. 159-28.1 (or any statute revising or superceding G.S. 159-28.1), only in accordance with provisions thereof, and is hereby directed to invest all of the funds of the Supplemental Retirement Fund Number Two in one or more of such investments.

Sec. 5. Acceptance of gifts. The Board of Trustees is hereby authorized to accept any gift, grant, bequest, or donation of money for the use of the Supplemental Retirement Fund Number Two.

Sec. 6. Bond of treasurer. The Board of Trustees shall bond the Treasurer of the Local Relief Fund with a good and sufficient bond, in an amount at least equal to the amount of funds in his control, payable to the Board of Trustees, and conditioned upon the faithful performance of his duties; such bond shall be in lieu of the bond required by G.S. 118-6. The Board of Trustees shall pay from the Local Relief Fund the premiums on the bond of the Treasurer.

Sec. 7. If any provision of this act shall be declared invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions hereof which can be given effect without the invalid provision, and to this end the provisions of this act are declared to be severable.

Sec. 8. This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of May, 1973.

H. B. 877

CHAPTER 321

AN ACT TO PROVIDE FOR THE CREATION OF INTERIM BOARD OF EDUCATION FOR WILSON COUNTY AND SUBSEQUENT CONSOLIDATION OF THE ELM CITY SCHOOLS ADMINISTRATIVE UNIT AND THE WILSON COUNTY SCHOOLS ADMINISTRATIVE UNIT.

The General Assembly of North Carolina enacts:

Section 1. As used in this act certain terms are defined as follows:

(a) The term "Elm City Board" shall mean the Elm City Board of Education.
(b) The term "existing County Board" shall mean the existing Wilson County Board of Education.

(c) The term "Wilson County Interim Board of Education" shall mean a separate Board of Education established by this act for the purpose of supervising, coordinating, contracting for and acquiring all new schools and plant sites to be built in the administrative unit affected by this act.

(d) The term "Elm City administrative unit" shall mean the geographical territory over which the Elm City Board of Education exercises its authority in administering and operating the public schools of the said unit.

(e) The term "County administrative unit" shall mean the geographical territory over which the existing Wilson County Board of Education exercises its authority in administering and operating the public schools of said unit.

(f) The term "County Commissioners" shall mean the Board of Commissioners of Wilson County.

(g) The term "Wilson County Board of Education" shall mean the single Board of Education hereinafter established by this act for the purpose of operating and administering all of the public schools now operated and administered by the Elm City Board of Education and the existing Wilson County Board of Education.

Sec. 2. The Elm City Board of Education and the existing Wilson County Board of Education by majority vote of each may mutually agree on a Plan of Consolidation and Merger and shall petition for approval of the same by the County Commissioners of Wilson County, all pursuant to the provisions of G.S. 115-74.1 of the General Statutes of North Carolina.

Sec. 3. Upon approval of the County Commissioners of Wilson County as provided for in said Plan of Merger and as provided for herein and as provided for in G.S. 115-74.1 of the General Statutes of North Carolina, said Plan of Consolidation and Merger of the Elm City administrative unit and the existing Wilson County Board of Education shall be effective as of July 1, 1974, and within 30 days after said approval of said Plan of Consolidation and Merger by the State Board of Education as provided for in G.S. 115-74.1 the Interim Board as hereinafter provided for shall be established as a body politic and as such shall assume the authority and responsibility for the supervision, coordinating, acquisition, contracting and construction as to all new school buildings to be built within the territorial limits of the resulting Board of Education and the said Interim Board shall meet within 30 days after its establishment for the purpose of organizing. The Interim Board of Education shall elect a Chairman to preside over its meetings and all members of the Interim Board shall be equally entitled to hold any office of the Board. The Interim Board shall exercise all powers and authorities and duties that are now exercised and

performed by the City and County Boards of Education as set forth in the General Statutes as they relate to the selection and acquisition of school sites, entering into contracts for the construction of new school buildings and facilities and for the purpose of obtaining equipment and supplies required for such building facilities.

All powers and authority not specifically given to the Interim Board under this act are specifically retained by the two existing Boards of Education.

For the purpose for which the Interim Board is hereby established, the Interim Board shall have all statutory powers and authority to prepare and submit to the Board of Commissioners of Wilson County all necessary budgets including supplemental budgets and at the time required by law shall prepare and submit to the Board of Commissioners of Wilson County all necessary capital outlay, debt service and current expense budget. The Interim Board shall expend all funds in conformity with approved budgets.

In addition, from and after the first day of January 1974 the Interim Board shall have all necessary powers and authority to make contracts, hire personnel and adopt policies and administrative procedures, all as the same may relate to all school matters for the school year 1974-1975 and for subsequent years.

Sec. 4. In the event this Plan of Merger and Consolidation is approved as herein provided for, the Interim Board of Education consisting of seven members shall be created in addition to the two existing Boards and the said Interim Wilson County Board of Education shall remain in existence until such time as the Wilson County Board of Education as herein established shall be fully constituted and the members of the Interim Wilson County Board of Education shall be elected or appointed as follows: The existing Wilson County Board of Education from its membership shall appoint five members and the existing Elm City Board of Education from its membership shall appoint two members to the Interim Board to the seats set forth below, all such members to reside within the administrative units appointing said members except for Dr. Badie T. Clark, a current member of the Wilson County Board of Education who resides in the City of Wilson, but this exception shall not apply to his successor.

Such members of the Interim Board shall serve until July 1, 1974, the effective date of the merger and consolidation of the two administrative units herein provided for.

As of July 1, 1974, the Interim Board shall be and become the Wilson County Board of Education, at which time the Wilson County Board of Education shall consist of seven members and the members thereof shall be elected or appointed as follows:

Seat No. 1 shall be filled by that member of the Interim Board or his duly qualified successor who shall have originally been appointed by the Wilson County Board of Education.

Seat No. 2 shall be filled by that member of the Interim Board of Education or his duly qualified successor who shall have originally come from the existing Wilson County Board of Education.

Seat No. 3 shall be filled by that member of the Interim Board of Education or his duly qualified successor who shall have originally come from the existing Elm City Board of Education.

Seat No. 4 shall be filled by that member of the Interim Board of Education or his duly qualified successor who shall have originally come from the existing Elm City Board of Education.

Education or his duly qualified successor who shall have originally come from the existing Wilson County Board of Education.

Seat No. 5 shall be filled by that member of the Interim Board of Education or his duly qualified successor who shall have originally come from the existing Elm City Board of Education.

Seat No. 6 shall be filled by that member of the Interim Board of Education or his duly qualified successor who shall have originally come from the existing Wilson County Board of Education.

Seat No. 7 shall be filled by that member of the Interim Board of Education or his duly qualified successor who shall have originally come from the existing Wilson County Board of Education.

All terms of office for each member of the Wilson County Board of Education shall commence on July 1, 1974, and the term of office for each seat of said Wilson County Board of Education shall be as follows:

The term of office for Seat No. 1 shall expire on the second Monday in January of 1975.

The term of office for Seat No. 2 shall expire on the second Monday in January of 1975.

The term of office for Seat No. 3 shall expire on the second Monday in January of 1977.

The term of office for Seat No. 4 shall expire on the second Monday in January of 1977.

The term of office for Seat No. 5 shall expire on the second Monday in January of 1979.

The term of office for Seat No. 6 shall expire on the second Monday in January of 1979.

The term of office for Seat No. 7 shall expire on the second Monday in January of 1979.

At the time of the general election during the year 1974, there shall be elected two members, who after their qualifications, shall fill Seats No. 1 and 2. Said members shall be residents of Wilson County but shall not reside within the territorial limits of the Wilson City Board of Education administrative unit and shall be elected by the voters of Wilson County at large save and except, however, those voters who reside within the administrative unit of the Wilson City Board of Education, all in a nonpartisan election.

The two candidates receiving the highest number of votes shall be so declared elected for a six-year term. The candidate receiving the highest number of votes in the election shall be certified and declared by the Board of Elections to be a member of the Wilson County Board of Education and shall fill Seat No. 1. The candidate receiving the second highest number of votes in the election shall be certified and declared by the Board of Elections to be a member of the Wilson County Board of Education and shall fill Seat No. 2.

At the time of the general election during the year 1976, there shall be elected two members of the Wilson County Board of Education who shall be residents of Wilson County but shall not reside within the territorial limits of the Wilson City Board of Education administrative unit and shall be elected by the voters of Wilson County at large, save and except, however, those voters who reside within the administrative unit of the Wilson City Board of Education, all in a nonpartisan election.

The two candidates receiving the highest number of votes shall be so

declared elected for a six-year term. The candidate receiving the highest number of votes in the election shall be certified and declared by the Board of Elections to be a member of the Wilson County Board of Education and shall fill Seat No. 3. The candidate receiving the second highest number of votes in the election shall be certified and declared by the Board of Elections to be a member of the Wilson County Board of Education and shall fill Seat No. 4.

At the time of the general election during the year 1978, there shall be elected three members of the Wilson County Board of Education, who after their qualifications, shall fill Seats No. 5, 6 and 7. Said members shall be residents of Wilson County but shall not reside within the territorial limits of the Wilson City Board of Education administrative unit and shall be elected by the voters of Wilson County at large, save and except, however, those voters who reside within the administrative unit of the Wilson City Board of Education, all in a nonpartisan election.

The three candidates receiving the highest number of votes shall be so declared elected for six-year terms. The candidate receiving the highest number of votes in the election shall be certified and declared by the Board of Elections to be a member of the Wilson County Board of Education and shall fill Seat No. 5. The candidate receiving the second highest number of votes in the election shall be so certified and declared by the Board of Elections to be a member of the Wilson County Board of Education and shall fill Seat No. 6. The candidate receiving the third highest number of votes in the election shall be so certified and declared by the Board of Elections to be a member of the Wilson County Board of Education and shall fill Seat No. 7.

The members of the Wilson County Board of Education elected in the general elections of 1974, 1976 and 1978 shall take office on the second Monday in January of the year following the election. The terms of their office shall date and extend from that time.

All vacancies in membership of the Wilson County Board of Education or in membership of the Interim Board of Education by reason of death, resignation or removal from Wilson County or otherwise shall be filled by the remaining members of the said Board of Education. The member so elected must be a resident of Wilson County and must reside within the administrative unit of the Wilson County Board of Education to fill the seat vacated by death, resignation or removal or otherwise of his predecessor and such vacancies to be filled by the remaining members of the Wilson County Board of Education within sixty (60) days after the vacancy occurs.

In the event that any seat on the Wilson County Board of Education is not filled as a result of a general election in any year where the term of office for that said seat is to expire immediately following said election, the Wilson County Board of Education shall declare a vacancy on the second day of January next following the general election and such vacancy shall be filled in accordance with the preceding paragraph.

As the term of office for each seat of the Wilson County Board of Education expires from and after 1978, elections in the general election immediately preceding the expiration dates for each seat shall be held for the election of successor members of the Wilson County Board of Education to fill the seats so expiring and the election of all members of the Wilson County Board of Education shall be nonpartisan and said candidates for membership on the Wilson County Board of Education shall be residents of Wilson County but

shall not reside within the territorial limits of the Wilson City Board of Education administrative unit and shall be elected by the voters of Wilson County at large, save and except, however, those voters who reside within the administrative unit of the Wilson City Board of Education; and all such elections shall be held in the general elections of the County in even-numbered years and shall be held, conducted and supervised by the Board of Elections and except as herein provided, the general election laws and regulations for the nomination and elections of County officers as set forth in Chapter 153 of the General Statutes of North Carolina as amended shall apply and govern as to the holding of said elections. The term of office for each seat of the Wilson County Board of Education shall be for six years and the seat designation for members elected shall be the same as that provided for in the preceding paragraphs of this section.

Sec. 5. The Interim Board of Education shall cease as a body politic on July 1, 1974, when the Wilson County Board of Education shall assume authority and its members shall take office as herein provided.

Sec. 6. Upon the creation of the Interim Board and until July 1, 1974, the Elm City Board of Education and the existing Wilson County Board of Education shall continue to exercise all powers and authority with respect to the administration and operation of all existing schools in the administrative unit of each respective Board of Education, together with all other powers conferred by law except those which are specifically given to the Interim Board for the purpose of supervising, coordinating, contracting for and acquiring all new school plants and sites to be built in Wilson County.

The financial administration of existing Wilson County Board of Education and the Elm City Board of Education until otherwise terminated herein shall be governed by the provisions of the General Statutes of North Carolina except that the Interim Board of Education shall have specific authority between January 1, 1974, and July 1, 1974, to prepare and submit to the Board of County Commissioners all necessary budgets, including supplemental budgets and at the time required by law to prepare and submit to the Board of Commissioners all the necessary capital outlay, debt service and current expense budget for school purposes all for and in behalf of the Wilson County Board of Education notwithstanding the creation of the Wilson County Board of Education until July 1, 1974.

Sec. 7. When any vacancy occurs on the Elm City Board of Education and the existing Wilson County Board of Education prior to July 1, 1974, such vacancy shall be filled in the manner now provided by law.

Sec. 8. As of July 1, 1974, when the Wilson County Board of Education shall assume all of the authority of administering and operating all schools in the existing Wilson County administrative unit and the Elm City administrative unit, all authority and power of the Elm City Board of Education and the existing Wilson County Board of Education and the Interim Wilson County Board of Education shall cease and terminate and the same shall be vested in the Wilson County Board of Education and the resulting Wilson County Board of Education shall control, administer and operate all the schools formerly administered by the Elm City administrative unit and the Wilson County administrative unit.

Sec. 9. Upon approval of the Plan of Consolidation and Merger as herein provided for as of July 1, 1974, the title to all property of the Wilson County

Board of Education and the Elm City Board of Education and the Wilson County Interim Board of Education, both real and personal of every kind and description shall be vested in the Wilson County Board of Education; and the Elm City Board of Education and the existing Wilson County Board of Education shall have full and ample authority between June 15, 1974, and July 1, 1974, to execute all deeds and other instruments of conveyance as may be deemed necessary to vest record title to any such property heretofore held by them in and to the Wilson County Board of Education as of July 1, 1974. All claims and demands of every kind which the Elm City Board of Education and the existing Wilson County Board of Education and the Wilson County Interim Board of Education may have as of such date, to wit, July 1, 1974, shall pass and be transferred to the Wilson County Board of Education, and said Board of Education shall have the same powers and authority to enforce said claims and demands as the existing Wilson County Board of Education and the Elm City Board of Education would have had in the event of their continued existence. Any obligations and liabilities of the Elm City Board of Education and the existing Wilson County Board of Education existing as of July 1, 1974, shall be and become the obligations and liabilities of the Wilson County Board of Education as of July 1, 1974, and such obligations and liabilities may be enforced against the said Wilson County Board of Education thereafter to the same extent that they might have been enforced against the existing Boards had they continued in existence.

As of July 1, 1974, the Wilson County Board of Education shall have all power and authority as a Board of Education as herein conferred and as are conferred by the General Statutes of North Carolina on Boards of Education in general.

Sec. 10. A condition of the merger and consolidation of the existing Wilson County Board of Education with the Elm City Board of Education shall be upon approval of a Plan of Merger and Consolidation entered into and agreed upon by a majority of the Elm City Board of Education and the existing Wilson County Board of Education, which Plan shall be then submitted to the Board of County Commissioners of Wilson County for its concurrence and approval, and approved by the State Board of Education all as provided in G.S. 115-74.1.

Sec. 11. Upon approval of a Plan of Consolidation and Merger as herein provided for and upon the establishment of the Interim Board of Education as herein provided for, then and in that event, all existing laws providing for the election and reelection of members to the existing Wilson County Board of Education and to the Elm City Board of Education shall be suspended, the same as if repealed, and the terms of office of members of the existing Boards of Education shall continue until the termination of each respective Board of Education hereunder and the election procedures for membership to the Interim Board and the resulting Wilson County Board of Education to be established as of July 1, 1974, hereunder shall control.

Sec. 12. (a) The purpose of this act is to provide an enabling statute in addition to the other statutes which may be available for such purposes for the merger of the Elm City administrative unit and the existing Wilson County administrative unit.

(b) This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 4th day of May, 1973.

H. B. 1219

CHAPTER 322

AN ACT AMENDING CHAPTER 234 OF THE 1973 SESSION LAWS BY PROVIDING THAT THE HAW RIVER SANITARY DISTRICT SHALL HAVE UNTIL JUNE 1, 1973, TO TAKE ALL ACTIONS NECESSARY TO EFFECT THE TRANSFER OF THE ASSETS AND LIABILITIES OF THE DISTRICTS TO THE TOWN OF HAW RIVER.

The General Assembly of North Carolina enacts:

Section 1. Chapter 234 of the 1973 Session Laws is hereby amended by deleting from line 3 of Section 8 the word "April" and by inserting in lieu thereof the word "June".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of May, 1973.

S. B. 27

CHAPTER 323

AN ACT TO AMEND G.S. 50-13.6 RELATING TO COUNSEL FEES IN CHILD CUSTODY AND SUPPORT ACTIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 50-13.6 is hereby rewritten to read as follows:

"§50-13.6. *Counsel fees in actions for custody and support of minor children.*—In an action or proceeding for the custody or support, or both, of a minor child, including a motion in the cause for the modification or revocation of an existing order for custody or support, or both, the court may in its discretion order payment of reasonable attorney's fees to an interested party acting in good faith who has insufficient means to defray the expense of the suit. Before ordering payment of a fee in a support action, the court must find as a fact that the party ordered to furnish support has refused to provide support which is adequate under the circumstances existing at the time of the institution of the action or proceeding; provided however, should the court find as a fact that the supporting party has initiated a frivolous action or proceeding the court may order payment of reasonable attorney's fees to an interested party as deemed appropriate under the circumstances."

Sec. 2. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 7th day of May, 1973.

S. B. 481

CHAPTER 324

AN ACT REWRITING SECTIONS 4 AND 5, CHAPTER 785, SESSION LAWS OF 1953, RELATING TO ELECTION OF SCHOOL BOARD MEMBERS OF THE ST. PAULS CITY SCHOOL BOARD, AS AMENDED BY CHAPTER 452 SESSION LAWS OF 1955.

The General Assembly of North Carolina enacts:

Section 1. Section 4, Chapter 785, Session Laws of 1953, as amended and rewritten by Chapter 452, Session Laws of 1955, is hereby rewritten to read as follows:

"Sec. 4. The governing body of the St. Pauls City Administrative Unit shall be a Board of Education, consisting of six members, which shall be a body

corporate by the name and style of 'the St. Pauls City Board of Education'. All members of said Board shall be known as 'school board members' and shall reside within the limits of said Administrative School Unit and shall be qualified electors within said area."

Sec. 2. Section 5, Chapter 785, Session Laws of 1953, as rewritten by Chapter 452, Session Laws of 1955, is hereby rewritten to read as follows:

"Sec. 5(a). Elections. Elections of school board members shall be held by the Robeson County Board of Elections and all qualified voters who have registered and are residents of the St. Pauls City Administrative School Unit shall be entitled to vote in the election of school board members.

(b) Conduct of elections. The school board elections shall be nonpartisan and decided by a simple plurality, and shall be held at the same time as the regular municipal election for the Town of St. Pauls, beginning with the election to be held in November 1975, and except as otherwise provided herein, shall be held and conducted in accordance with the applicable provisions of Articles 23 and 24 of Chapter 163 of the General Statutes.

(c) Notice of elections. Notice of elections shall be given by the Board of Elections at least six weeks prior to the time that the election will be held, said notice shall be given by posting a notice at three public places within the said Administrative School Unit boundaries and by publishing such notice one time in a newspaper circulating within said Administrative Unit. The election shall be a nonpartisan election. No primary election shall be held.

(d) Term of office. Beginning with the election to be held in 1975, and every two years thereafter, school board members shall be elected for terms of six years. The two incumbent Board members whose terms are scheduled to expire in February 1974, shall have their terms of office extended until their successors are elected in November 1975, and qualified as specified herein. The two incumbent Board members whose terms are scheduled to expire in February 1975, shall have their terms of office extended until their successors are elected in November 1977, and qualified as specified herein. The two incumbent Board members whose terms are scheduled to expire in February 1976, shall have their terms of office extended until their successors are elected in November 1979, and qualified by taking office as specified herein. The Board members' term shall commence on the first Monday in January after their election.

(e) Candidates. Candidates for school board members may file their notice of candidacy with the Robeson County Board of Elections at any time after 12:00 Noon on the Friday preceding the eighth Saturday and before 12:00 Noon on the Friday preceding the fourth Saturday before the November election. Persons filing for the office of school board member shall be qualified electors residing within the boundaries of the St. Pauls City Administrative School Unit wherein school board members are to be elected. A fee of five dollars (\$5.00) shall be paid with the filing of candidacy.

(f) How elected. The two candidates receiving the highest number of votes in the election shall be certified by the Board of Elections to the St. Pauls City Administrative School Unit's School Board as elected as school board members. If there should be more candidates than positions to be filled and should there be a tie vote, then the tie shall be broken by casting of lots, for the purpose of determining the two candidates elected.

(g) Taking office after election. Those persons elected as school board

members shall take office on the first Monday in January after their election, at which time they shall take the oath of office and assume their duties.

(h) Organization of the new Board and election of Chairman and Vice-Chairman and Treasurer. At the first regular Board meeting to be held on the first Monday in February following each election, the Board shall organize by electing a Chairman who shall serve for a period of two years, a Vice-Chairman who shall serve for two years. A Treasurer shall be elected who need not necessarily be a member of said Board. The Board shall adopt such bylaws as the said Board may deem necessary and proper.

(i) Meetings. The Board of Education shall hold regular monthly meetings at least once each calendar month at a time set by the Board as it, from time to time, deems proper. Special Board meetings may be called either by the Chairman, Vice-Chairman (in absence or incapacity of the Chairman) or by the Superintendent of Schools, who is by virtue of his office Secretary of the Board.

(j) Vacancies. Vacancies on said Board occurring by reason of death, resignation or otherwise than by expiration of the term of office, shall be filled for the unexpired term by appointment of the remaining school board members."

Sec. 3. This is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of May, 1973.

S. B. 482

CHAPTER 325

AN ACT REWRITING SECTIONS 4, 5, 12, and 13 OF CHAPTER 695, SESSION LAWS OF 1971, RELATING TO REVISIONS OF THE CHARTER OF THE TOWN OF ST. PAULS, NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. Section 4, Chapter 695, Session Laws of 1971, is hereby rewritten to read as follows:

"Sec. 4. Creation, salary and composition of Mayor and Board of Commissioners. Except as otherwise provided in this Charter, all powers of the Town shall be vested in a Board of Commissioners composed of six members and a mayor elected from the Town at large in a manner hereinafter provided. Beginning with the regular municipal election to be held November 1973, a Mayor shall be elected for a term of four years, commencing on the second Thursday in December after his election. The term of the present Mayor is extended until the second Thursday in December 1973. The Board of Commissioners shall be elected for four-year terms commencing on the second Thursday in December after their election. The terms of the present members are hereby extended from the first Thursday of June in the year in which their term is scheduled to expire, until the second Thursday in December of the year in which their term expires. If a vacancy occurs in the office of Mayor, it shall be filled by majority vote of the members of the Board of Commissioners. The person appointed shall serve until the next regular municipal election, at which time a Mayor shall be elected by the voters of the Town. The person elected shall serve for a term of four years. If a vacancy occurs in the office of the Board of Commissioners, it shall be filled by the majority vote of the remaining members of the Board of Commissioners. The person appointed shall serve until the next regular municipal election at which time a person shall be elected by

the voters of the Town to fill the unexpired term of the person causing the vacancy. The ballot shall indicate that the candidate is seeking to be elected for the unexpired term.

Each member of the Board of Commissioners shall receive fifteen dollars (\$15.00) compensation for each meeting attended and the Mayor shall receive twenty-five dollars (\$25.00) compensation for each meeting attended, with a limit of two meetings per month to be compensated for. Compensation and allowances of the Mayor and Commissioners hereafter shall be in accordance with the General Statutes of North Carolina controlling municipal officers as set forth in G.S. 160A-64 or subsequent amendments thereto. Members of the Board of Commissioners and the Mayor shall be qualified electors of the Town. A member of the Board of Commissioners or the Mayor ceasing to possess any of the qualifications specified in this section, or convicted of a felony or a serious misdemeanor while in office, shall immediately forfeit his office."

Sec. 2. Section 5, Chapter 695, Session Laws of 1971, is hereby rewritten to read as follows:

"Sec. 5. Meetings of the Board of Commissioners. At 7:30 p.m. on the second Thursday of December following a regular municipal election, the Board of Commissioners and Mayor shall meet at the usual place for holding its meetings and the newly elected members, and then they shall then be sworn into the office for which they have been elected, and then they shall constitute the new Board and Mayor of the Town of St. Pauls. Thereafter the Board of Commissioners shall meet at 7:30 p.m. on the second Thursday of each month or until such other time as may be prescribed by ordinance or resolution, but not less frequently than once each month. Special meetings shall be called by the Mayor, the Mayor Pro Tempore, or any two members of the Council, at any time by signing a written notice stating the time and place of the meeting and the subject to be considered. The notice shall be delivered to the Mayor and each Councilman or left at his usual dwelling place at least six hours before the meeting. Special meetings may be held at any time when the Mayor and all members of the Council are present and consent thereto, or when those not present have signed a written waiver of notice. Only those items of business specified in the notice may be transacted at a special meeting, unless all members are present or have signed a waiver of notice in writing. All meetings of the Board of Commissioners and of committees thereof shall be open to the public and the rules of the Board of Commissioners shall provide that citizens of the Town shall have a reasonable opportunity to be heard at any such meetings in regard to any matter considered thereof."

Sec. 3. Section 12, Chapter 695, Session Laws of 1971, is hereby rewritten to read as follows:

"Sec. 12. Municipal Elections. The regular municipal elections shall be nonpartisan and decided by simple plurality, and shall be held on Tuesday after the first Monday in November in odd-numbered years beginning in 1973. The elections shall be held and conducted by the Robeson County Board of Elections. The Board of Commissioners may, by resolution, order a special election, fix the time for holding the same, and provide all means for holding such special election."

Sec. 4. Section 13, Chapter 695, Session Laws of 1971, is hereby rewritten to read as follows:

"Sec. 13. Regulations of Elections. Except as otherwise provided herein, all

elections shall be conducted in accordance with the applicable sections of the municipal election laws as set forth in Article 23 and Article 24 of Chapter 163 of the General Statutes of North Carolina."

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of May, 1973.

S. B. 443

CHAPTER 326

AN ACT TO AMEND CHAPTER 323, PRIVATE LAWS OF 1899, THE CHARTER OF THE TOWN OF GRANITE FALLS, TO PROVIDE FOR THE ELECTION OF TOWN OFFICIALS.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of Chapter 323 Private Laws of 1899, as amended, is hereby rewritten to read:

"Sec. 3. Elections - Mayor, Commissioners, etc. In Granite Falls there shall be a Board of Commissioners composed of six members, and a mayor elected by the voters of the entire town as herein provided. The mayor shall be elected for a term of four years, and the Commissioners shall be elected for staggered terms of four years.

The municipal elections in Granite Falls shall be nonpartisan and decided by a simple plurality. No primary elections shall be held. The municipal elections shall be held and conducted by the Caldwell County Board of Elections pursuant to the applicable provisions of Articles 23 and 24 of Chapter 163 of the General Statutes.

In the municipal elections to be held on Tuesday after the first Monday in November, 1973, and every four years thereafter, the mayor shall be elected for a term of four years. The three candidates for Commissioner receiving the highest number of votes shall be elected for a term of four years, and the three candidates for Commissioner receiving the next highest number of votes shall serve for a term of two years. Thereafter as the terms expire, their successors shall be elected for terms of four years.

The mayor and members of the Board of Commissioners shall take office on the first Monday in December after their election.

All qualified voters in the Town of Granite Falls who reside therein shall be eligible for office, and to vote in the municipal elections. Candidates for the office of mayor or Commissioner shall file with the Town Clerk a petition of nomination signed by at least 25 qualified voters of the Town, and the petition must be filed by noon on the 15th day before the election.

A vacancy occurring in the office of mayor or on the Board of Commissioners shall be filled for the unexpired term as provided by general law.

A chief of police and a secretary and treasurer shall be appointed by the Board of Commissioners at their first meeting after taking oath, and such persons shall serve for a period of one year and until their successors are appointed and qualified."

Sec. 2. The present mayor and members of the Board of Commissioners

are hereby continued in office until their successors are elected and qualified under this act.

Sec. 3. All laws and clauses of law in conflict with this act are hereby repealed to the extent of such conflict.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of May, 1973.

S. B. 484

CHAPTER 327

AN ACT TO SET BONDSMAN FEES IN ROBESON COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The following Chapters and sections of the Session Laws of North Carolina are repealed: (a) Section 3, Chapter 995, 1947 Session Laws; (b) Chapter 1126, 1953 Session Laws; (c) Section 2, Chapter 217, 1969 Session Laws.

Sec. 2. Section 3 of Chapter 136 of the 1947 Session Laws of North Carolina is hereby rewritten as follows:

"No person, firm, association or corporation executing, or becoming surety on, a bond for an appearance in any court of Robeson County shall charge as a total fee for the bond and any services connected with it an amount in excess of fifteen percent (15%) on the first one thousand five hundred dollars (\$1,500) of a bond or in excess of ten percent (10%) on the balance of a bond over that amount; except that when fifteen percent (15%) of the bond amount is less than five dollars (\$5.00), a minimum fee of five dollars (\$5.00) may be charged without regard to the limitations above."

Sec. 3. This act shall become effective on ratification.

In the General Assembly read three times and ratified, this the 7th day of May, 1973.

S. B. 488

CHAPTER 328

AN ACT TO AMEND CHAPTER 656 OF THE SESSION LAWS OF 1971 TO EXTEND THE TIME IN WHICH THE CUMBERLAND COUNTY LOCAL GOVERNMENT STUDY COMMISSION SHALL COMPLETE ITS WORK AND MAKE ITS REPORT TO DECEMBER 1, 1975.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 656 of the Session Laws of 1971 is amended by deleting "December 1, 1972" on line 12 of the third paragraph and inserting in lieu thereof the following: "December 1, 1975".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of May, 1973.

S. B. 517

CHAPTER 329

AN ACT TO VALIDATE THE PRIVATE SALE OF CERTAIN REAL PROPERTY FORMERLY OWNED BY THE TOWN OF KENANSVILLE ABC BOARD.

The General Assembly of North Carolina enacts:

Section 1. The private sale of two tracts of land formerly owned by the Kenansville Board of Alcoholic Control located in the Town of Kenansville, Kenansville Township, Duplin County, North Carolina, described in a deed dated December 13, 1968, to Worsley Oil Company, recorded in Book 652, page 501, and in a deed dated December 10, 1968, to Davis Evans and wife, Dora W. Evans, recorded in Book 652, page 259, and described as Lots No. 1 and 4 on a map recorded in Map Book 6, page 9, in the office of the Register of Deeds for Duplin County, are hereby declared to be valid and of the same force and effect as though sold at public auction.

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of May, 1973.

S. B. 564

CHAPTER 330

AN ACT TO AMEND ARTICLE 7, PART 1 OF CHAPTER 160A, OF THE GENERAL STATUTES OF NORTH CAROLINA PROVIDING FOR THE ORGANIZATION AND REORGANIZATION OF CITY GOVERNMENT AS IT RELATES TO THE CITY OF CHARLOTTE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-146 is hereby amended by deleting the section in its entirety and rewriting the same to read as follows:

“§ 160A-146. *Council to organize city government.*—The council may create, change, abolish and consolidate offices, positions, departments, boards, commissions, and agencies of the city government, establish the length of terms of members of boards, commissions, and agencies of city government, and generally organize and reorganize the city government in order to promote orderly and efficient administration of city affairs, subject to the following limitations:

- (1) The council may not abolish any office, position, department, board, commission, or agency established and required by law;
- (2) The council may not combine offices or confer certain duties on the same officer when such action is specifically forbidden by law;
- (3) The council may not discontinue or assign elsewhere any functions or duties assigned by law to a particular office, position, department, or agency.”

Sec. 2. This act shall apply only to the City of Charlotte.

Sec. 3. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of May, 1973.

S. B. 574

CHAPTER 331

AN ACT TO AMEND G.S. 157A-2 RELATING TO THE APPOINTMENT OF A HISTORIC PROPERTIES COMMISSION BY THE CITY OF CHARLOTTE AND THE COUNTY OF MECKLENBURG.

The General Assembly of North Carolina enacts:

Section 1. G.S. 157A-2, as the same applies to the City of Charlotte and Mecklenburg County, is hereby amended by adding the following at the end of said section:

"The City Council of the City of Charlotte and the Board of Commissioners of Mecklenburg County are hereby authorized to appoint a joint City-County Historic Properties Commission, and said Commission, if appointed, is hereby authorized to exercise all the powers conferred by this Chapter; provided, however, said Commission shall exercise the powers conferred by this Chapter within the zoning jurisdiction of both the City of Charlotte and Mecklenburg County. In the event that said joint Commission desires to exercise the powers conferred by this Chapter within the zoning jurisdiction of any other municipality in Mecklenburg County, it may do so only by prior approval of the governing board of said municipality."

Sec. 2. This act shall apply to the City of Charlotte and the County of Mecklenburg only.

Sec. 3. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of May, 1973.

S. B. 604

CHAPTER 332

AN ACT TO AMEND CHAPTER 713 OF THE SESSION LAWS OF 1965, BEING THE CHARTER OF THE CITY OF CHARLOTTE RELATING TO CANVASSING OF CITY ELECTIONS.

The General Assembly of North Carolina enacts:

Section 1. Section 2.82, Subchapter E., Chapter 2 of Chapter 713, Session Laws of 1965, is hereby amended by inserting after the words "Mecklenburg County" as it appears in the third line, the following: "the City Council Chambers or some other suitable location as determined by the Board of Elections," and by deleting the word "fifth" as it appears in the twenty-ninth line and substituting in lieu thereof the word "seventh".

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of May, 1973.

H. B. 598

CHAPTER 333

AN ACT TO AMEND CHAPTER 323, PRIVATE LAWS OF 1899, THE CHARTER OF THE TOWN OF GRANITE FALLS, TO PROVIDE FOR THE ELECTION OF TOWN OFFICIALS.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of Chapter 323 Private Laws of 1899, as amended, is hereby rewritten to read:

"Sec. 3. Elections - Mayor, Commissioners, etc. In Granite Falls there shall be a Board of Commissioners composed of six members, and a mayor elected by the voters of the entire town as herein provided. The mayor shall be elected for a term of four years, and the Commissioners shall be elected for staggered terms of four years.

The municipal elections in Granite Falls shall be nonpartisan and decided by a simple plurality. No primary elections shall be held. The municipal elections shall be held and conducted pursuant to the applicable provisions of Articles 23 and 24 of Chapter 163 of the General Statutes.

In the municipal elections to be held on Tuesday after the first Monday in November, 1973, and every four years thereafter, the mayor shall be elected for a term of four years. The three candidates for Commissioner receiving the highest number of votes shall be elected for a term of four years, and the three candidates for Commissioner receiving the next highest number of votes shall serve for a term of two years. Thereafter as the terms expire, their successors shall be elected for terms of four years.

The mayor and members of the Board of Commissioners shall take office on the first Monday in December after their election.

All qualified voters in the Town of Granite Falls who reside therein shall be eligible for office, and to vote in the municipal elections. Candidates for the office of mayor or Commissioner shall file with the Town Clerk a petition of nomination signed by at least 25 qualified voters of the Town, and the petition must be filed by noon on the 15th day before the election.

A vacancy occurring in the office of mayor or on the Board of Commissioners shall be filled for the unexpired term as provided by general law.

A chief of police and a secretary and treasurer shall be appointed by the Board of Commissioners at their first meeting after taking oath, and such persons shall serve for a period of one year and until their successors are appointed and qualified."

Sec. 2. The present mayor and members of the Board of Commissioners are hereby continued in office until their successors are elected and qualified under this act.

Sec. 3. All laws and clauses of law in conflict with this act are hereby repealed to the extent of such conflict.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of May, 1973.

H. B. 681

CHAPTER 334

AN ACT TO REORGANIZE AND EXPAND THE MEMBERSHIP OF THE
WAKE COUNTY BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. The Board of Education of Wake County shall continue to consist of five members to represent the districts hereinafter set forth until the first Monday in December, 1974, when three additional members shall be elected in the primary election of said year and thereafter the Board of Education of Wake County shall consist of eight members until the first Monday in December, 1976, when the term of one member of the Board expires, the said member being a resident of Raleigh Township; after said date the Board shall consist of seven members. Until the three additional members are elected, the Board of Education of Wake County shall continue to function as the legal and lawful Board of Education of Wake County and to exercise the powers and duties granted to and imposed upon the said Board of Education.

Sec. 2. The incumbent members of the Board of Education of Wake County shall continue to hold office until the first Monday in December of the year in which their present terms would expire, and until their successors are elected and qualified. Thereafter, one member shall be elected from each of the seven districts of Wake County, as herein provided, which districts are hereby created and established as follows:

District No. 1. shall be composed of that portion of St. Matthews Township, now and hereafter located in the Wake County School District.

District No. 2 shall be composed of that portion of Barton's Creek Township, Neuse Township, Meredith Township and House Creek Township, now and hereafter located in the Wake County School District.

District No. 3 shall be composed of that portion of White Oak Township, Swift Creek Township, Raleigh Township, Leesville Township and Cedar Fork, Township, now and hereafter located in the Wake County School District.

District No. 4 shall be composed of that portion of Cary Township now and hereafter located in the Wake County School District.

District No. 5 shall be composed of that portion of Buckhorn Township, Holly Springs Township, Middle Creek Township and Panther Branch Township, now and hereafter located in the Wake County School District.

District No. 6 shall be composed of that portion of St. Mary's Township, now and hereafter located in the Wake County School District.

District No. 7 shall be composed of that portion of Little River Township, Wake Forest Township, New Light Township and Marks Creek Township, now and hereafter located in the Wake County School District.

Sec. 3. In District No. 1, at the primary election in 1974 for County officers of Wake County, there shall be elected one member who is a bona fide resident of District No. 1 who shall take office on the first Monday in December, 1974, and shall serve for a term of two years. All successors in office for this office shall be elected at intervals of four years and shall serve for terms of four years.

In District No. 2 there shall be elected in the primary election for County officers in Wake County for the year 1976 one member who is a bona fide resident of District No. 2 and said member shall take office on the first Monday

in December, 1976, and shall serve for a term of four years, and all successors shall be elected at four-year intervals and shall serve for terms of four years.

In District No. 3 there shall be elected in the primary election for County officers in Wake County for the year 1974, one member who is a bona fide resident of District No. 3 who shall take office on the first Monday in December, 1974, and serve for a term of two years. All successors shall be elected at four-year intervals and shall serve for terms of four years.

In District No. 4 there shall be elected in the primary election for County officers of Wake County in the year of 1974 one member who is a bona fide resident of District No. 4, and said member shall take office on the first Monday in December, 1974, and hold office for a term of four years. All successors to this office shall be elected at four-year intervals and hold office for terms of four years.

In District No. 5 there shall be elected in the primary election for County officers of Wake County in the year of 1974 one member who is a bona fide resident of District No. 5, which said member shall take office on the first Monday in December, 1974, and hold office for a term of two years. Thereafter all successors to this office shall be elected at four-year intervals and shall serve for terms of four years.

In District No. 6 there shall be elected in the primary election for County officers in Wake County in the year of 1978 one member who is a bona fide resident of District No. 6, which said representative of said District shall take office on the first Monday in December, 1978, and shall hold office for a term of four years. Thereafter the successors to this office shall be elected at four-year intervals and said successors shall hold office for terms of four years.

In District No. 7 there shall be elected in the primary election for Wake County officers in Wake County in the year of 1974, one member who is a bona fide resident of District No. 7, which said representative of said District shall take office on the first Monday in December, 1974, and shall hold office for a term of four years. Thereafter all successors to this office shall be elected at four-year intervals and shall serve for a term of four years.

Sec. 4. The election of all representatives to represent the districts herein set forth on the Wake County Board of Education shall be at the time of the primary election to be held for County officers in Wake County and at the times heretofore designated. Except as otherwise provided herein, the election shall be held and conducted according to the procedure, provisions and machinery of Chapter 163 of the General Statutes (1971 Cumulative Supplement to Volume 3D, as amended), governing primary elections. The said election shall be nonpartisan and there shall be no writing or notation on the ballot which refers in any manner to political party or affiliation. Each candidate shall file with the Wake County Board of Elections a notice stating that he is a candidate for election to the school board. Said notice shall state the district which said candidate desires to be elected to represent, and a statement that he is a bona fide resident of said district, and said notice shall contain his name and address. The said notice of candidacy shall be filed with the Wake County Board of Elections before the deadline set for filing of other county offices and for filing for members of the General Assembly, and the said Wake County Board of Elections shall print a separate ballot for each district. The names of the persons who file notice with the Wake County Board of Elections stating that they desire to be candidates to represent any of the districts shall be

printed on a ballot as aforesaid with the name of the district which said candidate desires to represent appearing opposite his name, and the candidate so filing to represent the representative districts shall be voted upon at large by the qualified voters of Wake County in said primary election. In order for any candidate or candidates to represent any district or districts the said candidate or candidates shall receive a majority of the votes cast, which said majority shall be determined by the provisions of G.S. 163-111 (1971 Cumulative Supplement to Volume 3D, as amended). In the event no candidate or candidates shall receive a majority of the votes cast as determined according to the above cited provision of the General Statute, then any such candidate or candidates to represent the said districts may call for a second election according to the primary procedure as set forth in G.S. 163-111(c) (1971 Cumulative Supplement to Volume 3D, as amended). There shall be no third election, and in the event there is a second election the candidate to represent the districts or the candidates, as the case may be, receiving the highest number of votes shall be declared by the Board of Elections to be elected as a member or members of the Board of Education of Wake County. The members of the Wake County Board of Education so elected shall qualify by taking the oath of office on or before the first Monday of December in the year in which they are elected. A failure to qualify within that time shall constitute a vacancy. Those persons elected or appointed to fill a vacancy must qualify within thirty days after their appointment or election, and a failure to qualify within that time shall constitute a vacancy.

Sec. 4.1. Any qualified voter of Wake County whether or not in the Armed Forces of the United States, may vote by absentee ballot for members of the Wake County Board of Education in the manner now prescribed or may be hereafter prescribed for Primary Elections in the State of North Carolina.

Sec. 5. All persons elected to the Wake County Board of Education as herein provided shall take office on or before the first Monday in December in the year of their election and serve for a term of four years each, except for the first two-year terms provided in Section 3 of this act, and until their successors are elected and qualified; thereafter candidates elected to the said Board of Education in accordance with the provisions of this act shall likewise take office on or before the first Monday of December of the year of election and shall hold office for terms of four years.

Sec. 6. Any vacancy occurring on the Wake County Board of Education by death, resignation, or otherwise, shall be filled as is now provided by State law for filling vacancies on county boards of education, but such person appointed to fill the vacancy shall be a bona fide resident of the same district as the person whose death, resignation or removal created the vacancy on the Board. If a person who has been elected from any district dies or removes himself, or for any other reason cannot qualify for said office then and in that event it shall constitute a vacancy on said Board and shall be filled as above provided. If there is no candidate from any district, this shall constitute a vacancy which shall be filled as hereinabove provided.

Sec. 7. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 8. This act shall be effective upon its ratification.

In the General Assembly read three times and ratified, this the 7th day of May, 1973.

H. B. 708

CHAPTER 335**AN ACT TO PLACE SCOTLAND NECK UNDER THE STATEWIDE ANNEXATION LAWS.***The General Assembly of North Carolina enacts:*

Section 1. The Town of Scotland Neck is hereby authorized to annex property under the procedures of Part 1 and Part 2 of Article 36 of Chapter 160 of the General Statutes of North Carolina.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of May, 1973.

H. B. 714

CHAPTER 336**AN ACT CONCERNING THE TREASURER OF THE COUNTY SCHOOL ADMINISTRATIVE UNIT IN GUILFORD COUNTY.***The General Assembly of North Carolina enacts:*

Section 1. Notwithstanding the provisions of G.S. 115-91(a), the treasurer of all County school funds and school district funds of the County School Administrative Unit in Guilford County shall be appointed by the County Board of Education in the same manner as is provided in G.S. 115-91(b) and shall be subject to all of the provisions of G.S. 115-91(b).

Sec. 2. This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 7th day of May, 1973.

H. B. 734

CHAPTER 337**AN ACT TO FIX THE COMPENSATION FOR MEMBERS OF THE TYRRELL COUNTY BOARD OF EDUCATION.***The General Assembly of North Carolina enacts:*

Section 1. Each member of the Tyrrell County Board of Education, except the chairman, shall receive for his services fifteen dollars (\$15.00) per diem and ten cents (10¢) per mile to and from the places of meeting. The chairman of the Tyrrell County Board of Education shall receive for his services the sum of forty dollars (\$40.00) per month and ten cents (10¢) per mile to and from the places of meeting. Any additional expenses incurred by a member of the board of education while carrying out his duties as a member of the board may be reimbursed upon approval by a majority of the members of the board of education.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of May, 1973.

H. B. 736**CHAPTER 338**

AN ACT TO REPEAL CHAPTER 153, SESSION LAWS OF 1969, RELATING TO THE COMPOSITION OF THE BOARD OF EDUCATION OF TYRRELL COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 153, Session Laws of 1969, is repealed.

Sec. 2. The Tyrell County Board of Education shall continue to be elected under the provisions of G.S. 115-19, and the elections of 1970 and 1972 for members of the Tyrell County Board of Education pursuant to G.S. 115-19 are validated.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of May, 1973.

H. B. 737**CHAPTER 339**

AN ACT TO AMEND CHAPTER 1228, 1971 SESSION LAWS, AUTHORIZING THE TYRRELL COUNTY BOARD OF EDUCATION TO ENTER INTO LONG-TERM AND SHORT-TERM LEASE, LEASE BACK, AND LEASE-PURCHASE CONTRACTS WITH INDIVIDUALS, FIRMS AND CORPORATIONS.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 1228, Session Laws of 1971, is amended by adding after the word "Hoke" the following word and punctuation ",Tyrrell".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of May, 1973.

H. B. 766**CHAPTER 340**

AN ACT AUTHORIZING GUILFORD COUNTY TO ADOPT A MORE CONVENIENT SITE THAN THE COURTHOUSE DOOR OR STEPS FOR THE POSTING OF ANY NOTICE REQUIRED BY LAW TO BE DONE OR POSTED AT SUCH SITE.

The General Assembly of North Carolina enacts:

Section 1. If Guilford County should determine that the traditional location of the "courthouse," the "courthouse door," the "courthouse bulletin board" or the "courthouse steps" has become inappropriate or inconvenient for the doing of any act or the posting of any notice required by law to be done or posted at such a site, Guilford County is hereby authorized and empowered to designate by ordinance some appropriate or more convenient location for the site. The Guilford County Board of Commissioners shall cause such an ordinance to be published at least once within 30 days after the day it is adopted and shall cause a copy of it to be posted for 60 days at the traditional location.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of May, 1973.

H. B. 768

CHAPTER 341**AN ACT RELATING TO COMPENSATION OF BUNCOMBE COUNTY BOARD OF EDUCATION MEMBERS.***The General Assembly of North Carolina enacts:*

Section 1. Members of the Buncombe County Board of Education shall be entitled to receive as compensation the sum of twenty-five dollars (\$25.00) for each meeting of the Board attended, plus travel expenses for attendance at each public meeting at the same rate approved for State employees.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of May, 1973.

H. B. 769

CHAPTER 342**AN ACT TO EXEMPT BUNCOMBE COUNTY FROM THE PROVISIONS OF G.S. 47-17.1.***The General Assembly of North Carolina enacts:*

Section 1. G.S. 47-17.1, as the same appears in the 1971 Cumulative Supplement to Volume 2A of the General Statutes, is hereby amended by deleting from the thirteenth line thereof the word "Buncombe".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of May, 1973.

H. B. 775

CHAPTER 343**AN ACT TO AMEND THE CHARTER OF THE TOWN OF NASHVILLE IN THE COUNTY OF NASH RELATING TO THE ELECTION OF LOCAL OFFICIALS.***The General Assembly of North Carolina enacts:*

Section 1. The Charter of the Town of Nashville, as enacted by Section 1 of Chapter 320 of the Session Laws of 1969, is amended as follows:

(a) Sec. 5(a) is rewritten to read as follows:

"(a) The Mayor shall be elected for a term of two years. At the regular municipal election to be held in November, 1973, the two candidates for the Board of Commissioners elected with the highest number of votes shall be elected for terms of four years, and the two candidates elected with the next highest number of votes shall be elected for terms of two years. In the regular municipal election in 1975 and biennially thereafter, all candidates for the Board of Commissioners shall be elected for terms of four years. The Mayor and newly elected members of the Board of Commissioners shall take office at the next regular meeting of the Board of Commissioners following their election. If a vacancy occurs in the office of Mayor or Commissioner, it shall be filled for the remainder of the unexpired term by a majority vote of the remaining members of the Board of Commissioners."

(b) Sec. 6(a) is amended in line 3 by striking out the words "on the 1st

Tuesday after the 1st Monday in June” and inserting in their place the words “at the time of the first regular meeting of the Board of Commissioners”.

(c) Sec. 10(b) is amended by striking out the words “first meeting in the month of June” and inserting the words “first regular meeting”.

(d) Sec. 11 is amended by rewriting the first sentence to read as follows: “The regular election for the choice of Mayor and members of the Board of Commissioners shall be held at the time prescribed in Chapter 163, Sub-chapter IX of the General Statutes of North Carolina.”

(e) Sec. 12 is amended by placing a period after the word “elections” in line 2 and striking out the remainder of the sentence.

(f) Sections 13, 14, and 16 are repealed, and Sec. 15 is renumbered Sec. 13.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of May, 1973.

H. B. 787

CHAPTER 344

AN ACT TO AUTHORIZE THE TOWN OF GARLAND TO EXPEND FUNDS DERIVED FROM THE OPERATION OF ALCOHOLIC BEVERAGE CONTROL STORES FOR CERTAIN GYMNASIUM AND PLAYGROUND EQUIPMENT.

The General Assembly of North Carolina enacts:

Section 1. The Board of Commissioners of the Town of Garland is hereby authorized, in its discretion, to expend during the 1973-74 fiscal year from funds derived from the operation of alcoholic beverage control stores an amount not to exceed six thousand dollars (\$6,000) for the purchase of gymnasium equipment and playground equipment for public schools located within the town.

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall be effective upon its ratification.

In the General Assembly read three times and ratified, this the 7th day of May, 1973.

S. B. 669

CHAPTER 345

AN ACT TO PROVIDE FOR INSURANCE COVERAGE FOR NEWBORN INFANTS.

The General Assembly of North Carolina enacts:

Section 1. Article 26 of Chapter 58 of the General Statutes is hereby amended by adding a new section thereto, designated G.S. 58-251.4, to read as follows:

“§ 58-251.4. *Policies to cover newborn infants.*—Every policy of insurance and every hospital service or medical service plan as defined in Chapter 57 of the General Statutes (regardless of whether any of such policies or plans shall be defined as individual, family, group, blanket, franchise, industrial or otherwise) which provides benefits on account of any sickness, illness, or disability of any minor child or which provides benefits on account of any medical treatment or service authorized or permitted to be furnished by a hospital under the laws of this State to any minor child shall provide such benefits for such occurrences

beginning with the moment of birth of such child if such birth occurs while said policy or subscriber contract with such a plan is in force.

Benefits in such insurance policies or plans shall be the same for congenital defects or anomalies as are provided for most sicknesses or illnesses suffered by minor children which are covered by said policies or plans.

No policy or plan subscriber contract shall be approved by the Commissioner of Insurance pursuant to the provisions of this Article or the provisions of Chapter 57 of the General Statutes that does not comply with the provisions of this section."

Sec. 2. The provisions of Section 1 of this act shall apply both to insurers governed by the provisions of Chapter 58 of the General Statutes and to corporations governed by the provisions of Chapter 57 of the General Statutes.

Sec. 3. This act shall become effective upon ratification but shall only apply to policies of insurance, and hospital service and medical service plan subscriber contracts delivered, issued for delivery, re-issued or renewed in this State on and after July 1, 1973.

In the General Assembly read three times and ratified, this the 7th day of May, 1973.

H. B. 756

CHAPTER 346

AN ACT TO AUTHORIZE THE REDEVELOPMENT COMMISSION OF THE TOWN OF CHAPEL HILL TO PERMIT DISPOSITION OF LAND FOR A SPECIAL PURPOSE AT FAIR MARKET VALUE WITHOUT COMPETITIVE BIDDING; TO PERMIT DISPOSITION OF LAND ON THE BASIS OTHER THAN THE HIGHEST MONETARY BID, WHERE SUCH DISPOSITION IS FOUND TO SERVE THE BEST INTEREST OF THE MUNICIPALITY, AND TO DISPOSE OF PROPERTY AT PRIVATE SALE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160-464 is hereby amended by adding the following subdivision (5) after subsection (e), subdivision (4):

"(5) After a public hearing advertised in accordance with the provisions of G.S. 160-463 (e) and subject to the approval of the governing body of the municipality, the Commission may determine that in the best interest of the municipality certain property should be developed for one purpose only, which purpose shall be designated. The Commission shall advertise such property and designated purpose, and shall invite redevelopment proposals by public notice, by publication once a week for two consecutive weeks in a newspaper having general circulation in the municipality, and shall make available all pertinent information to any persons interested in undertaking a purchase of such property and the redevelopment of such property or any part thereof. Any property sold in accordance with this subsection shall be sold at public auction to the highest bidder for cash at a price not less than the fair market value thereof, as fixed by the Commission. All conveyances made under the authority of this subsection shall contain restrictive covenants limiting the use of

property so conveyed to the designated purpose for which the conveyance is made.”

Sec. 2. G.S. 160-464 (d) is hereby amended by inserting the following at the end thereof:

“Regardless of the preceding provisions, the Commission may reject the highest responsible bid and accept a lesser bid where it makes the following specific findings and where such findings are verified and approved by the governing body of the municipality after a public hearing advertised in accordance with the provisions of G.S. 160-463(e):

The general public welfare and proper development of the community will be better served by the bid which was accepted than by the higher bid or bids which were rejected, for one or more of the following reasons:

(1) The proposed use or development of the land under the successful bid will result in an assessed valuation for ad valorem taxation greater than that of the use or uses proposed by the higher bidders;

(2) The proposed use or development of the land under the successful bid will have a substantially greater beneficial effect upon neighboring property, the project area, and the community as a whole than the use or uses proposed by the higher bidders and will tend to induce greater investment in the development of other property in the area;

(3) The proposed use or development of the land under the successful bid will facilitate the relocation of persons or firms displaced by redevelopment projects to a substantially greater degree than the use or uses proposed by the higher bidders.”

Sec. 3. G.S. 160-464 (d) is hereby amended by inserting the following clause between the word “section” and the word “provided” in line 16: “or to a developer under the special circumstances set forth in subdivision (6) of subsection (e)”.

Sec. 4. G.S. 160-464 (e) is hereby amended by adding the following new subdivision (6):

“(6) Convey at private sale to any other redeveloper particular properties within a redevelopment area where it finds the proposed redeveloper is the only known available, qualified and willing redeveloper for the contemplated use and makes one or more of the following findings and all such findings are verified and approved by the governing body of the municipality after a public hearing, notice of which shall be given once a week for two successive calendar weeks in a newspaper published in the municipality, by posting such notice at four public places in the municipality, said notice to be published the first time, or posted, not less than 15 days prior to the date fixed for said hearing:

a. That the proposed use or redevelopment is necessary in order to facilitate the relocation of persons or firms displaced by a redevelopment project or other governmental action;

b. That the proposed use or redevelopment is reasonably necessary in order to assure development which will have the desired beneficial effect upon neighboring property, the project area, and the community as a whole, as contemplated by the redevelopment plan;

c. That the proposed use or redevelopment will assure that the property will not remain unused for an unduly long period and will result in a return to the

local ad valorem rolls at a substantially earlier date than uses or redevelopments obtainable by other methods of disposition.

Such conveyance shall be for such consideration as may be agreed upon by the Commission and the redeveloper and approved by the governing body of the municipality, which shall not be less than the fair, actual value of the property as determined by the Commission and by the governing body of the municipality, based on competent evidence."

Sec. 5. This act shall apply only to the Town of Chapel Hill.

Sec. 6. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 7th day of May, 1973.

H. B. 758

CHAPTER 347

AN ACT TO PROVIDE FOR THE ELECTION OF COUNTY COMMISSIONERS OF MITCHELL COUNTY AND TO PROVIDE STAGGERED TERMS FOR THE BOARD OF COUNTY COMMISSIONERS.

The General Assembly of North Carolina enacts:

Section 1. Beginning with the regular election for County officers in 1974, there shall be nominated and elected in Mitchell County a Board of County Commissioners consisting of a Chairman and four members. The candidate who is elected Chairman of the Board of County Commissioners shall serve for a term of two years and until his successor is elected and qualified. The two candidates elected to seats on the Board of County Commissioners who received the highest number of votes in the general election shall serve for terms of four years and until their successors are elected and qualified. The remaining two candidates elected to seats on the Board of County Commissioners who received the next highest number of votes in the general election shall serve for terms of two years and until their successors are elected and qualified. As the term of the Chairman and of each member of the Board of County Commissioners expires, his successor shall be elected for a term of four years.

Sec. 2. Vacancies occurring for any reason shall be filled for the unexpired term by appointment by the remaining members of the Board of County Commissioners and said appointee shall be a member of the same political party as the person causing the vacancy.

Sec. 3. All laws and clauses of laws pertaining to the election of the Board of County Commissioners of Mitchell County in conflict with this act are hereby repealed.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of May, 1973.

H. B. 760

CHAPTER 348

AN ACT TO REVISE AND REWRITE THE CHARTER OF THE TOWN OF PITTSBORO AND TO REPEAL PRIOR CHARTER ACTS.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Pittsboro is hereby revised and consolidated to read as follows:

"THE CHARTER OF THE TOWN OF PITTSBORO

"ARTICLE I. INCORPORATION AND CORPORATE POWERS

"Section 1.1. *Incorporation and General Powers.* The Town of Pittsboro shall continue to be a body politic and corporate under the name and style of the Town of Pittsboro, and shall continue to be vested with all property and rights which now belong to the Town; shall have perpetual succession; may have a common seal and alter and renew the same at pleasure, may sue and be sued; may contract, may acquire and hold such property, real and personal, as may be devised, bequeathed, sold or in any manner conveyed or dedicated to it, or otherwise acquired by it, and may from time to time hold or invest, sell, or dispose of the same; and shall have and may exercise in conformity with this Charter all municipal powers, functions, rights, privileges, and immunities of every name and nature.

"Sec. 1.2. *Exercise of Powers.* All powers, functions, rights, privileges, and immunities of the Town, its officers, agencies or employees, shall be carried into execution as provided by this Charter, or, if this Charter makes no provision, as provided by ordinance or resolution of the Board of Commissioners and as provided by the general laws of North Carolina pertaining to municipal corporations.

"Sec. 1.3. *Enumerated Powers Not Exclusive.* The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive but, in addition to the powers enumerated herein or implied hereby, or those appropriate to the exercise of such powers, the Town of Pittsboro shall have and may exercise all powers which are granted to municipal corporations by the general laws of North Carolina, it would be competent for this Charter specifically to enumerate.

"Sec. 1.4. *Form of Government.* The form of government of the Town of Pittsboro shall be the Council-Manager form, as specified in this Charter.

"ARTICLE II. CORPORATE BOUNDARIES

"Sec. 2.1. *Existing Corporate Boundaries.* The present boundaries of the Town shall remain intact and are described as follows:

BEGINNING at a point in the center of the concrete bridge on Old Siler City-Pittsboro Highway which bridge is located North about 70 degrees West approximately 1,000 feet from Dark's Hatchery and running thence from said point of beginning South 27 degrees East a distance of approximately 7,600 feet to a point in the center of Bernice Griffin driveway and running thence due West along the center of said driveway a distance of 235 feet and thence South 5 degrees West a distance of 650 feet, thence South 67 degrees West a distance of 475 feet, thence North 55 degrees West 200 feet, thence South 4 degrees West 750 feet to a point on the northern side of that driveway or road leading from Highway 15-501 in a westerly direction beyond Harvey Brown's house, thence along and with the northern margin of said road due East a distance of 1,000 feet to a point in the western margin of the right-of-way of

Highway 15-501 and thence along the western margin of Highway 15-501 northerly a distance of 1450 feet to the center of Bernice Griffin's driveway and westerly with center of said driveway 75 feet, thence North 35 degrees East 8,400 feet to a point which is located 500 feet due North from the intersection of the southern margin of Thompson Street and the eastern side of a street running on the eastern side of St. Andrews Christian Church and running thence from said point in a northwesterly direction to a point located due North 675 feet from the center of the intersection of Parke Drive and Middle Street and thence South 55 degrees West 650 feet, to a point on northern margin of Parke Drive, thence along northern margin of Parke Drive, its various courses a distance of about 375 feet, thence North 18 degrees West 200 feet, thence North 35 degrees West 600 feet, thence South 10 degrees West 790 feet, thence South 68 degrees West 200 feet, thence South 14 degrees West 600 feet, thence South 55 degrees West 3,450 feet to the point of BEGINNING.

"Sec. 2.2 *Extension of Corporate Boundaries*. All extensions of the corporate boundaries shall be governed by the General Statutes of North Carolina.

"ARTICLE III. MAYOR AND BOARD OF COMMISSIONERS

"Sec. 3.1. *Composition of Board of Commissioners*. The Board of Commissioners shall consist of five members to be elected by the qualified voters of the Town voting at large in the manner provided in Article IV.

"Sec. 3.2. *Mayor and Mayor Pro Tempore*.

(a) The Mayor shall be elected by and from the qualified voters of the Town voting at large in the manner provided in Article IV. The Mayor shall be the official head of the Town government and shall preside at all meetings of the Board of Commissioners. Where there is an equal division on a question, the Mayor shall determine the matter by his vote, but he shall vote in no other case. The Mayor shall exercise such powers and perform such duties as are or may be conferred upon him by the general laws of North Carolina, by this Charter, and by the ordinances of the Town. The Board of Commissioners shall choose one of its number to act as Mayor Pro Tempore, and he shall perform the duties of the Mayor in the Mayor's absence or disability. The Mayor Pro Tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the Board.

(b) Any vacancy occurring in the office of Mayor shall be filled by the Board of Commissioners from their number and any person so appointed shall serve the remainder of the unexpired term.

"Sec. 3.3. *Terms; Qualifications; Vacancies*.

(a) The members of the Board of Commissioners shall serve for terms of four years, and the Mayor shall serve for a term of two years, beginning the day and hour of the organizational meeting following their election, as established by ordinance in accordance with this Charter, provided, they shall serve until their successors are elected and qualify.

(b) No person shall be eligible to be a candidate or be elected as Mayor or as a member of the Board of Commissioners or to serve in such capacity, unless he is a resident and a qualified voter of the Town.

(c) In the event a vacancy occurs in the office of Commissioner, the Board of Commissioners shall by majority vote appoint some qualified person to fill the same for the remainder of the unexpired term.

"Sec. 3.4. *Organization of Board of Commissioners; Oaths of Office*. The

Board of Commissioners shall meet and organize for the transaction of business at the first regularly scheduled meeting of the Board following each biennial election. Before entering upon their offices, the Mayor and each Commissioner shall take, subscribe, and have entered upon the minutes of the Board the following oath of office.

"I _____ do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office as _____, so help me, God."

"Sec. 3.5. Meetings of Board.

(a) The Town Board shall fix suitable times for its regular meetings, which shall be as often as once monthly.

(b) All meetings of the Board shall be open to the public. The Board shall not by executive session or otherwise formally consider or vote upon any question in private session other than matters pertaining to personnel and other matters allowed by general law.

(c) The Mayor, the Mayor Pro Tempore, or any two members of the council may at any time call a special council meeting by signing a written notice stating the time and place of the meeting and the subjects to be considered. The notice shall be delivered to the Mayor and each councilman or left at his usual dwelling place at least six hours before the meeting. Special meetings may be held at any time when the Mayor and all members of the council are present and consent thereto, or when those not present have signed a written waiver of notice. Only those items of business specified in the notice may be transacted at a special meeting, unless all members are present or have signed a written waiver of notice.

"Sec. 3.6. *Quorum*. A majority of the members elected to the Town Board and serving shall constitute a quorum for the conduct of business, but a less number may adjourn from time to time and compel the attendance of absent members in such manner as may be prescribed by ordinance.

"Sec. 3.7. *Ordinances and Resolutions*. The adoption, amendment, repeal, pleading, or proving of ordinances shall be in accordance with the applicable provisions of the general laws of North Carolina not inconsistent with this Charter. The yeas and nays shall be taken upon all ordinances and resolutions and entered upon the minutes of the Board. The enacting clauses of all ordinances shall be: 'Be it ordained by the Board of Commissioners of the Town of Pittsboro.' All ordinances and resolutions shall take effect upon adoption unless otherwise provided therein."

"Sec. 3.8. *Compensation of Mayor and Commissioners*. From the date of ratification of this act, the Mayor shall, until appointment of a Town Manager receive a salary of two thousand dollars (\$2,000) per year and after appointment of a Town Manager the Mayor shall receive the sum of thirty dollars (\$30.00) for each regular and special meeting attended, not to exceed the sum of one thousand two hundred dollars (\$1,200) per year. Each commissioner shall from the date of ratification of this act receive the sum of twenty-five dollars (\$25.00) for each regular and special meeting attended, not to exceed the sum of one thousand dollars (\$1,000) per year. The Board of Commissioners shall have authority to alter the compensation herein fixed as by general law provided.

“ARTICLE IV. ELECTION PROCEDURE

“Sec. 4.1. *Election.* On Tuesday after the first Monday in November, 1973, and every four years thereafter there shall be elected two commissioners, and on Tuesday after the first Monday in November, 1975, and every four years thereafter, there shall be elected three commissioners. The present members shall serve until their terms expire. On Tuesday after the first Monday in November, 1973, and every two years thereafter there shall be elected a Mayor.

“ARTICLE V. TOWN MANAGER

“Sec. 5.1. *Appointment of Town Manager.* The Board of Commissioners shall appoint a Town Manager who shall be the administrative head of the Town government responsible for the supervision and administration of all departments and employees except the Town Attorney. The Town Manager shall be appointed with regard to merit only, and he need not be a resident of the Town at the time of his appointment. He shall hold office during the pleasure of the Board of Commissioners and shall receive such compensation as it shall fix by ordinance.

“Sec. 5.2. *Powers of Town Manager.* The Town Manager so appointed shall:

- (a) Be the administrative head of the Town government;
- (b) See that within the Town the laws of the State and the ordinances, resolutions, and regulations of the Board of Commissioners are faithfully executed;
- (c) Attend all meetings of the Board of Commissioners, and recommend for adoption such measures as he shall deem expedient;
- (d) Make reports to the Board of Commissioners from time to time upon the affairs of the Town, and keep the Board fully advised of the Town's financial condition and its future financial needs;
- (e) Appoint and remove all employees of the Town, except the Town Attorney, and all appointments and removals of department heads made by the Manager shall be reported to the Board of Commissioners at its next succeeding meeting; and
- (f) Perform all other duties as may be required by the Board of Commissioners.

“Sec. 5.3. *Appointment and Removal of Officers.* Such municipal officers and employees as the governing body shall determine are necessary for the proper administration of the city shall be appointed by the manager, and any such officer or employee may be removed by him; but the manager shall report every such appointment and removal to the governing Board at the next meeting thereof following any such appointment or removal.

“Sec. 5.4. *Control of Officers and Employees.* The officers and employees of the municipality shall perform such duties as may be required of them by the manager, under general regulations of the governing Board.

“ARTICLE VI. ADMINISTRATIVE OFFICERS AND EMPLOYEES

“Sec. 6.1. *Town Clerk.* The Town Manager may appoint a Town Clerk to keep a journal of the proceedings of the Board of Commissioners and to maintain in a safe place all records and documents pertaining to the affairs of the Town, and to perform such other duties as may be required by law or as the Town Manager may direct.

“Sec. 6.2. *Town Tax Collector.* The Town Manager may appoint a Tax Collector to collect all taxes, licenses, fees and other moneys belonging to the Town, and he shall diligently comply with and enforce all the general laws of

North Carolina relating to the collection, sale, and foreclosure of taxes by municipalities.

"Sec. 6.3. *Town Finance Officer.* The Town Manager may appoint a Town Finance Officer to perform the duties of the Finance Officer as required by the Local Government Budget and Fiscal Control Act

"Sec. 6.4. *Consolidation of Functions.* The Town Manager may, with the approval of the Board of Commissioners, consolidate any two or more of the positions of Town Clerk, Town Tax Collector, and Town Finance Officer, or may assign the functions of any one or more of these positions to the holder or holders of any other of these positions. The Town Manager may also, with the approval of the Board of Commissioners himself perform all or any part of the functions of any of the named offices, in lieu of appointing other persons to perform the same.

"ARTICLE VII. TOWN ATTORNEY

"Sec. 7.1. *Appointment; Qualifications; Term; Compensation.* The Board of Commissioners shall appoint a Town Attorney who shall be an attorney at law licensed to engage in the practice of law in North Carolina and who need not be a resident of the Town during his tenure. The Town Attorney shall serve at the pleasure of the Board and shall receive such compensation as the Board shall determine.

"Sec. 7.2. *Duties of Town Attorney.* It shall be the duty of the Town Attorney to prosecute and defend suits for and against the Town; to advise the Mayor, Board of Commissioners, Town Manager, and other Town officials with respect to the affairs of the Town; to draw all legal documents relating to the affairs of the Town; to draw proposed ordinances when requested to do so; to inspect and pass upon all agreements, contracts, franchises and other instruments with which the Town may be concerned; and to perform such other duties as may be required of him by virtue of his position of Town Attorney.

"ARTICLE VIII. FINANCE

"Sec. 8.1. *Custody of Town Money.* All moneys received by the Town for or in connection with the business of the Town Government shall be paid promptly into the Town depository or depositories. Such institutions shall be designated by the Town Board in accordance with such regulations and subject to such requirements as to security for deposits and interest thereon as may be established by the General Statutes of North Carolina. All interest on moneys belonging to the Town shall accrue to the benefit of the Town. All moneys belonging to the Town shall be disbursed only in accordance with the provisions of the Local Government Budget and Fiscal Control Act.

"Sec. 8.2. *Independent Audit.* As soon as practicable after the close of each fiscal year, an independent audit shall be made of all books and accounts of the Town Government in accordance with the Local Government Budget and Fiscal Control Act.

"ARTICLE IX. POLICE

"Sec. 9.1. The jurisdiction of the police force is hereby extended three miles beyond the corporate boundaries, and is further extended to include all Town-owned property and facilities whether located within or outside the corporate limits, and all members of the police force shall have upon and within such property and facilities all rights, power and authority as they have within the corporate limits.

"Sec. 9.2. *Effect of Ordinances on Town Property.* All applicable ordinances of

the Town shall have full force and effect upon and within all property and facilities owned by the Town, whether located within or outside the corporate limits.

“ARTICLE X. STREET AND SIDEWALK IMPROVEMENTS

“Sec. 10.1. *Street Improvements, Assessment of Costs.* In addition to any authority which is now or may hereafter be granted by general law to the Town for making street improvements, the Board of Commissioners is hereby authorized to make street improvements and to assess the total cost thereof against abutting property owners in accordance with provisions of this Article.

“Sec. 10.2. *When Petition Unnecessary.* The Board of Commissioners may order street improvements and assess the cost thereof, exclusive of the costs incurred at street intersections, against the abutting property owners at an equal rate per front foot, without the necessity of a petition, upon the finding by the Board as a fact:

- (a) That the street improvement project does not exceed 1,200 linear feet and
- (b) That such street or part thereof is unsafe for vehicular traffic and it is in the public interest to make such improvement, or
- (c) That it is in the public interest to connect two streets, or portions of a street already improved, or
- (d) That it is in the public interest to widen a street, or part thereof, which is already improved; provided, that assessments for widening any street or portion of street without petition shall be limited to the cost of widening and otherwise improving such street in accordance with the street classification and improvement standards established by the Town's thoroughfare or major street plan for the particular street or part thereof to be widened and improved under the authority granted by this Article.

“Sec. 10.3. *Street Improvement Defined.* For the purposes of this Article, the term ‘street improvement’ shall include grading, regrading, surfacing, resurfacing, widening, paving, repaving, the acquisition of right-of-way, and the construction or reconstruction of curbs, gutters and street drainage facilities.

“Sec. 10.4. *Sidewalks; Assessment of Costs.* In addition to any authority which is now or may hereafter be granted by the General Statutes to the Town for making sidewalk improvements, the Board of Commissioners is hereby authorized to order to be made or to make sidewalk improvements or repairs without petition according to standards and specifications of the Town, and to assess the total cost thereof against the abutting property owners.

If a sidewalk is constructed on only one side of the street and in a residential zone the cost thereof may be assessed against the property abutting on both sides of the street, unless there already exists a sidewalk on the other side of the street, the total cost of which has been assessed against the abutting property.

“Sec. 10.5. *Assessment Procedure.* In ordering street and sidewalk improvements without a petition and assessing the cost thereof under authority of this Article, the Board of Commissioners shall comply with the procedure provided by the General Statutes, except those provisions relating to the petition of property owners and the sufficiency thereof.

“Sec. 10.6. *Effective Assessment.* The effect of the act levying assessments under the authority of this Article shall for all purposes be the same as if assessed and levied under authority of the General Statutes of North Carolina.

“ARTICLE XI. WATER AND SEWER

“Sec. 11.1. *Alternative Methods of Assessment.* In addition to, and as alternatives to the method provided in the General Statutes for assessing the costs of water and sewer lines and laterals, the Board of Commissioners, if in its opinion it would be more equitable to do so, is hereby authorized in its discretion to levy any such assessments according to either of the following methods: (1) equally against each of the lots capable of being served by such line or lines or (2) on the basis of the footage of land upon a public street by an equal rate per foot of such frontage.

In lieu of assessing the total cost of a particular project as herein provided, the governing body may annually, between the first days of January and July of each year, determine the average cost of installing water and sewer mains or lines and on the basis of such determination may make assessments of such average cost during the following fiscal year beginning July 1. The average cost of such installation shall include the cost of the particular size and material of lines completed during the preceding calendar year. It may also include the anticipated increase in labor and materials costs based upon the average of such increases during the preceding five calendar years. The assessment of the average cost of such line shall not be made until after the particular assessment project has been completed. The purpose of this section is to distribute more equitably the cost of the installation of water and sewer lines throughout the Town, to permit a property owner to know in advance what the cost of installation of water and sewer lines benefiting his property will be; and to permit the most expeditious assessment of cost against property after completion of the installation of such lines. The actual cost of acquisition of rights-of-way may also be assessed as a part of the cost of an individual project. If the right-of-way costs have not been determined and assessed with the assessment of the average installation costs at the time of the completion of the project, such costs may be assessed separately when they are determined.

“Sec. 11.2. *Water Connections.* In addition to the authority granted by the General Statutes the Board of Commissioners may require owners of improved property which may be based upon or near any water line of the Town to connect with the Town water system, and may establish and collect reasonable charges for such connections.

“ARTICLE XII. REFUSE, WEEDS, AND TRASH

“Sec. 12.1. *Property Kept Free of Offensive Matter.* It shall be the duty of every property owner in the Town to keep his property free from noxious weeds, trash, and all other forms of offensive animal or vegetable matter or refuse which may be dangerous or prejudicial to the public health or which may constitute a public nuisance.

“Sec. 12.2. *Removal of Offensive Matter; Charges a Lien.* The Board of Commissioners may by ordinance establish a procedure whereby Town forces may clean, cut, and remove any weeds, trash, refuse, or other offensive matter from any property upon failure of the owner or occupant after 10 days' notice to do so. In such event the cost of such cleaning, cutting and removal shall become a lien upon the particular property equal to the lien for ad valorem taxes and may thereafter be collected either by suit in the name of the Town or by foreclosure of the lien in the same manner and subject to the same rules, regulations, costs and penalties as provided by law for the foreclosure of the lien on real property for ad valorem taxes.

"ARTICLE XIII. CLAIMS AGAINST THE TOWN

"Sec. 13.1. *Presentation of Claims; Suit Upon Claims.* (a) All claims or demands against the Town of Pittsboro arising in tort or in contract shall be presented to the Board of Commissioners in writing, signed by the claimant, his attorney or agent, within 90 days after the claim or demand is due or the cause of action accrues, and no suit or action shall be brought thereon within 30 days or after the expiration of 12 months from the time said claim or demand is so presented. Unless the claim or demand is so presented within 90 days after the cause of action accrues, and unless suit is brought within 12 months thereafter, any action thereon is barred.

(b) No action shall be instituted against the Town on account of damages to or compensation for real property taken or used by the Town for any public purpose, or for the ejectment of the Town therefrom, or to remove a cloud upon the title thereof, unless, within two years after such alleged use, the owner, his executor, administrator, guardian, or next friend, shall have given notice in writing to the Board of Commissioners of the claim, stating in the notice the date that the alleged use commenced, a description of property alleged to have been used, and the amount of the damage or compensation claimed.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, if a complainant suffers from physical or mental incapacity that renders it impossible for him to give notice, his action shall not be barred if notice of claim is given by him or on his behalf within six months after the termination of his incapacity; provided, that minority shall not of itself constitute physical or mental incapacity. If the complainant is a minor, his action shall not be barred if notice of claim is given on his behalf within three years after the happening or the infliction of the injury complained of; or, if the minor suffers from physical or mental incapacity that claim is given on his behalf within six months after termination of the incapacity, or within three years after the happening or the infliction of the injury complained of whichever is the longer period. The Town may at any time request the appointment of a next friend to represent any person having a potential claim against the Town and known to be suffering from physical or mental incapacity.

"Sec. 13.2. *Settlement of Claims by Town Manager.* The Town Manager may with the approval of the Board of Commissioners settle claims against the Town for (1) personal injury or damages to property when the amount involved does not exceed the sum of one hundred dollars (\$100.00) and does not exceed the actual loss sustained including loss of time, medical expenses, and any other expense actually incurred and (2) the taking of small portions of property which are needed for the rounding of corners at intersections of streets, when the amount involved in any such settlement does not exceed five hundred dollars (\$500.00) and does not exceed the actual loss sustained. Settlement of a claim by the Town Manager pursuant to this section shall constitute a complete release of the Town from any and all damages sustained by the person involved in such settlement in any manner arising out of the accident, occasion, or taking complained of. All such settlements, and all such releases, shall be approved in advance by the Town Attorney."

Sec. 2. The purpose of this act is to revise the Charter of the Town of Pittsboro and to consolidate herein certain acts concerning the property, affairs, and government of the Town. It is intended to continue without interruption

those provisions of prior acts which are consolidated into this act, so that all rights and liabilities that have accrued are preserved and may be enforced.

Sec. 3. This act shall not be deemed to repeal, modify, nor in any manner to affect any of the following acts, portions of acts, or amendments thereto, whether or not such acts, portions of acts, or amendments are expressly set forth herein:

(a) Any acts concerning the property, affairs, or government of public schools in the Town of Pittsboro.

(b) Any acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind.

Sec. 4. No provision of this act is intended, nor shall be construed, to affect in any way any rights or interests (whether public or private):

(a) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act;

(b) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken (including the adoption of ordinances or resolutions) pursuant to or within the scope of any provision of law repealed by this act.

Sec. 5. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(a) The repeal herein of any act repealing such law, or

(b) Any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

Sec. 6. (a) All existing ordinances and resolutions of the Town of Pittsboro and all existing rules or regulations of departments or agencies of the Town of Pittsboro, not inconsistent with the provisions of this act, shall continue in full force and effect until repealed, modified or amended.

(b) No action or proceeding of any nature (whether civil or criminal, judicial or administrative or otherwise) pending at the effective date of this act by or against the Town of Pittsboro or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

Sec. 7. Severability. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 8. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 9. This act shall be effective upon its ratification; provided, however, that the present system of government (Mayor-Council) shall continue until a Town Manager shall have been appointed, which shall be accomplished prior to January 1, 1974.

In the General Assembly read three times and ratified, this the 7th day of May, 1973.

H. B. 761

CHAPTER 349

AN ACT TO PROVIDE FOR THE NOMINATION AND ELECTION OF THE JONES COUNTY BOARD OF EDUCATION IN PARTISAN ELECTIONS.

The General Assembly of North Carolina enacts:

Section 1. The Board of Education of Jones County shall consist of five members who shall be nominated and elected by the voters of the county at large. The members shall be elected for four-year staggered terms so as nearly equal to one half as possible shall expire every two years.

Sec. 2. Beginning with the partisan primary and election for county officers to be held in 1974, and thereafter, there shall be nominated and elected members of the county board of education to take the place of the members whose terms next expire. Members elected in 1974, and thereafter, shall take office and qualify as provided in G.S. 115-22.

Sec. 3. Article 5 of Chapter 115 of the General Statutes shall be applicable to the Jones County Board of Education except those provisions thereof which are in conflict with this act.

Sec. 4. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 7th day of May, 1973.

H. B. 762

CHAPTER 350

AN ACT AUTHORIZING THE JONES COUNTY BOARD OF COMMISSIONERS TO ESTABLISH A RETIREMENT SYSTEM FOR JONES COUNTY EMPLOYEES AND A MANDATORY RETIREMENT AGE FOR SUCH EMPLOYEES.

The General Assembly of North Carolina enacts:

Section 1. The Board of Commissioners of Jones County is hereby authorized and empowered to establish and maintain a retirement system for all employees of Jones County. Any retirement plan established pursuant to this act must be certified to be actuarially sound by a qualified actuary. A qualified actuary is an individual certified as qualified by the Commissioner of Insurance, or any member of the American Academy of Actuaries.

Sec. 2. The Board of Commissioners, in establishing a retirement system for all employees of Jones County, is further authorized and empowered to establish a retirement age of 65 for such employees, except that the Board of Commissioners may extend the retirement age on a yearly basis until an employee reaches the age of 70.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of May, 1973.

H. B. 788 CHAPTER 351**AN ACT TO PROVIDE STAGGERED TERMS FOR THE YADKIN COUNTY BOARD OF COMMISSIONERS.**

The General Assembly of North Carolina enacts:

Section 1. In the primary and general election, and biennially thereafter, the members of the Yadkin County Board of Commissioners shall be nominated and elected for four-year staggered terms as provided herein. In the 1974 general election for county officers, the two candidates receiving the highest number of votes shall be elected for terms of four years, and the three candidates receiving the next highest number of votes shall be elected for terms of two years. Thereafter, as the terms of members expire, their successors shall be elected for terms of four years. A vacancy occurring on the Board for any reason shall be filled for the unexpired term as provided by general law."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of May, 1973.

H. B. 789 CHAPTER 352**AN ACT TO PROVIDE THAT THE TAX COLLECTOR FOR YADKIN COUNTY SHALL BE APPOINTED BY THE BOARD OF COUNTY COMMISSIONERS.**

The General Assembly of North Carolina enacts:

Section 1. The Tax Collector of Yadkin County shall be appointed by the Board of County Commissioners. The first appointment under this act shall be made on or before July 1 of the year in which the term of the present Tax Collector expires, and the term of the appointee shall begin on July 1 of the year in which appointed. Except as provided herein, the provisions of Article 26, Chapter 105 of the General Statutes shall be applicable to the Tax Collector of Yadkin County.

Sec. 2. Chapter 539, Session Laws of 1947, and all laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of May, 1973.

H. B. 796 CHAPTER 353**AN ACT TO AUTHORIZE THE CITY OF HAMLET TO CONVEY TO AMERICAN LEGION POST NO. 49, INC., A CERTAIN LOT OF LAND LYING ON FIRST STREET OR BOYD'S LAKE ROAD ADJOINING THE PROPERTY THEY PURCHASED FROM THE CITY OF HAMLET IN 1963, FOR PURPOSES OF LITTLE BOYS' LEAGUE PLAYGROUND AND OTHER ACTIVITIES, WITH REVERTER CONDITION.**

The General Assembly of North Carolina enacts:

Section 1. The City of Hamlet is hereby authorized and empowered to convey to American Legion Post No. 49, Incorporated, a certain lot of land located on First Street, or Boyd's Lake Road, and adjacent to the lot purchased by the American Legion Post No. 49, Incorporated, in 1963, said property being

located near Hamlet in Marks Creek Township, Richmond County, North Carolina, which lot is described as follows:

BEGINNING at an iron stake, the eastern corner of the property conveyed by the City of Hamlet to American Legion Post No. 49, Incorporated, as a little boys' league playground and running thence South 42-20 West 350 feet to an iron stake, the southernmost corner of the tract of land conveyed to American Legion Post No. 49, Incorporated, in 1963; thence South 47-40 East 200 feet to an iron stake; thence North 42-20 East 350 feet to an iron stake; thence North 47-40 West 200 feet to the point of beginning, for the purposes of enabling said American Legion Post No. 49, Incorporated, to conduct a little boys' baseball league and other recreational activities.

Sec. 2. Upon approval by the City Council of the City of Hamlet, the Mayor and the City Clerk of the City of Hamlet are authorized and empowered to execute a deed to said American Legion Post No. 49, Incorporated, but such deed shall carry a provision that if said American Legion Post No. 49, Incorporated, shall fail to use the property for the purposes named herein, or for similar recreational purposes, then the title to this property shall revert to the City of Hamlet and any deed executed under this act shall carry provisions to this effect.

Sec. 3. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 7th day of May, 1973.

H. B. 799

CHAPTER 354

AN ACT TO ABOLISH THE OFFICE OF CORONER IN CATAWBA COUNTY UPON THE EXPIRATION OF THE TERM OF THE PRESENT CORONER.

The General Assembly of North Carolina enacts:

Section 1. The office of Coroner of Catawba County is hereby abolished upon the expiration of the term of the present coroner, and Chapter 152 of the General Statutes shall not thereafter be applicable to Catawba County.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of May, 1973.

H. B. 800

CHAPTER 355

AN ACT TO REPEAL CHAPTER 75 OF THE PUBLIC-LOCAL LAWS OF 1937, CHAPTER 139 OF THE SESSION LAWS OF 1955, AND TO ESTABLISH A BOARD OF EQUALIZATION AND REVIEW IN CATAWBA COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 75 of the Public-Local Laws of 1937 is repealed.

Sec. 2. Chapter 139 of the Session Laws of 1955 is repealed.

Sec. 3. Subsection (a) of G.S. 105-322 is rewritten to read as follows:

“(a) Personnel. The Board of Equalization and Review shall be composed of five members appointed by the Board of County Commissioners for terms of three years. Not more than three members of the Board of Equalization and

Review shall belong to the same political party. The terms of office of members of the Board of Equalization and Review shall begin on the first Monday in December. In the year of a general election for members of the Board of County Commissioners, appointments to the Board of Equalization and Review shall not be made until the newly elected members of the Board of Commissioners have taken office. Members of the Board of Equalization and Review may be removed from office by the Board of County Commissioners for good cause shown upon 10 days' written notice and an opportunity to be heard at a public session of the Board of Commissioners being given to the member of the Board of Equalization and Review to be removed. Vacancies in the Board of Equalization and Review shall be filled by appointment of the Board of County Commissioners for the remainder of the unexpired term. At its first meeting after taking office, the Board of Equalization and Review shall designate one of its members to serve as chairman for a term of one year."

Sec. 4. The members of the Catawba County Tax Commission holding office on the effective date of this act are hereby appointed to the Catawba County Board of Equalization and Review to serve out the remainder of the terms to which they were appointed pursuant to Chapter 75 of the Public-Local Laws of 1937 as amended by Chapter 139 of the Session Laws of 1955. Within 30 days after the ratification of this act, the members of the Catawba County Board of Equalization and Review appointed hereby shall meet and organize by taking the oath of office and selecting a chairman as provided in G.S. 105-322 as amended by this act. Upon the expiration of the terms of office of these persons, their successors shall be appointed by the Catawba County Board of Commissioners pursuant to G.S. 105-322(a) as amended by this act.

Sec. 5. This act applies only to Catawba County.

Sec. 6. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of May, 1973.

H. B. 833

CHAPTER 356

AN ACT AUTHORIZING THE GOVERNING BODY OF THE CITY OF DURHAM, UPON PETITION, TO PROVIDE WATER AND SEWER SERVICES TO PROPERTY ABUTTING EXISTING CITY WATER OR SEWER MAINS AND AFFIXING A LIEN TO SAID PROPERTY FOR THE COST OF PROVIDING SUCH SERVICE.

The General Assembly of North Carolina enacts:

Section 1. In addition to any other powers and authority heretofore granted by general law, local act or Charter, the City Council of the City of Durham is hereby authorized and empowered to provide water service or sewer service or both such services to property, within or without the corporate limits, abutting existing City water or sewer mains or the right-of-way thereof and affix a lien to said property for the cost of providing such service.

Sec. 2. The authority granted by this act shall be exercised only upon petition by the owner or owners of such abutting property. Such petition shall be upon a form approved by the City Council and shall contain:

- (a) a description of the service or services requested, and
- (b) a description of the property to be served, and
- (c) the anticipated cost of furnishing such services, and

(d) the terms of payment by such property owner for the costs incurred by the City of Durham in furnishing such service, including but not limited to, the number of installments in which payment shall be made and the interest rate to be applied to any unpaid balance, and

(e) such other information as may be required by the City Council.

Sec. 3. The City Council may approve or deny any such petition submitted. If any such petition shall be approved by the City Council, the City Clerk shall mark upon the face of such petition such words as shall indicate such approval by the City Council, and the date and time of such approval.

Sec. 4. From and after approval of any petition submitted pursuant to this act, a lien in favor of the City of Durham shall exist upon the property described in such petition for the amount stated in such petition as the anticipated cost of furnishing such service. Such lien shall be inferior to all prior and subsequent federal, State and county tax liens of record but superior to all others. Said lien may be collected by foreclosure in the same manner as provided by law for the foreclosure of liens for special assessments. Any foreclosure proceeding instituted pursuant to this act shall be deemed a proceeding in rem and no mistake or omission as to the name of any owner or person interested in any lot or parcel of land affected thereby shall be regarded a substantial mistake or omission. No change of ownership shall affect any lien created pursuant to this act.

Sec. 5. Payment of the anticipated costs of providing service shall be as prescribed by the terms of the petition approved by the City Council. If any installment payment due and payable under the terms of the approved petition shall be unpaid for a period of 30 days or more, then all subsequent installment payments shall become due and payable and proceedings as set forth in Section 4 herein may be instituted.

Sec. 6. If the City Council shall determine that the actual costs or furnishing the services provided for in any approved petition shall have exceeded the amount originally stated in such petition as the anticipated costs of providing such services, the City Council may, by resolution, amend the approved petition to set forth the correct cost. The City Council's determination of such actual cost shall be deemed conclusive. Upon amendment as provided by this section, the petition shall be deemed effective as if originally submitted with the amended cost set forth therein. The City Council may provide for payment of any such increased amended cost, by increasing the amounts of any unpaid installments due under the original approved petition. A copy of any resolution enacted pursuant to this section shall be mailed or personally delivered to the owner or owners of such property at their last known address.

Sec. 7. Any petition approved by the City Council and any amendment thereof shall be filed in the office of the City Clerk. The City Clerk shall forward a copy of any such petition or amendment to the Collector of Revenue. The Collector of Revenue shall maintain a record of such approved petitions and amendments thereof and such records shall be available to public view during regular business hours.

Sec. 8. If the actual cost of providing the services requested in any approved petition shall be less than the costs set forth in such petition as anticipated costs, the City Council may order such excess deposited in the water and sewer fund of the City for the use of the City or may order such excess paid to the owner or owners of the property set forth in such petition as their

respective interests may appear. Provided, however, any anticipated cost set forth in the approved petition which shall have been determined under any schedule of charges approved by the City Council shall, for the purpose of this section, be deemed the actual cost of providing such service.

Sec. 9. This act shall apply only to the City of Durham.

Sec. 10. This act shall be in full force and effect upon ratification.

In the General Assembly read three times and ratified, this the 7th day of May, 1973.

H. B. 860

CHAPTER 357

AN ACT TO AMEND THE CHARTER OF THE TOWN OF CARY TO PROVIDE FOR COMPENSATION OF OFFICERS ACCORDING TO GENERAL LAW.

The General Assembly of North Carolina enacts:

Section 1. Section 3.7(b) of the Charter of the Town of Cary, as enacted by Chapter 868 of the Session Laws of 1971, is hereby amended by striking out the second sentence thereof.

Sec. 2. All laws and clauses of laws in conflict with this act are repealed.

Sec. 3. This act shall be effective upon its ratification.

In the General Assembly read three times and ratified, this the 7th day of May, 1973.

H. B. 882

CHAPTER 358

AN ACT RAISING THE PER DIEM OF THE MEMBERS OF THE PENDER COUNTY BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. Each member of the Board of Education of Pender County shall receive a per diem of twenty-five dollars (\$25.00) for each meeting of said board attended. The chairman shall receive a per diem of thirty-five dollars (\$35.00). Each member of the Board of Education shall receive a per diem of twenty-five dollars (\$25.00) for each day or substantial part thereof spent performing duties imposed upon any such member by authority of the Board. The Chairman shall receive thirty-five dollars (\$35.00).

Sec. 2. Any conflicting provisions of Chapter 456 of the 1965 Session Laws and Chapter 268 of the 1969 Session Laws and all other laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of May, 1973.

H. B. 891

CHAPTER 359

AN ACT TO PROVIDE FOR AN ELECTION ON THE QUESTION OF THE
NONPARTISAN ELECTION OF THE RUTHERFORD COUNTY
BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. At the time of the primary election for county officers to be held in 1974, a countywide election shall be held in Rutherford County on the question of whether the Rutherford County Board of Education should be elected in a nonpartisan election. The election shall be conducted by the Rutherford County Board of Elections. The proposition shall be placed on a separate ballot and shall be in the following form: "FOR nonpartisan election of the Rutherford County Board of Education", and "AGAINST nonpartisan election of the Rutherford County Board of Education".

If a majority of the votes cast in the election are for nonpartisan election of the Rutherford County Board of Education, then Sections 2 through 9 of this act shall become effective upon the certification of the results of the election, and the names of those persons nominated in the primary of each political party as candidates for the Rutherford County Board of Education shall be placed on a separate ballot in the 1974 general election without designation of party affiliation, and the 1974 election for members of the Rutherford County Board of Education shall be conducted on a nonpartisan basis. In this election, the candidate receiving the highest number of votes for each district seat shall be declared elected, and there shall be no runoff. In 1976 and biennially thereafter, all elections for members of the Rutherford County Board of Education shall be conducted on a nonpartisan basis as provided in Sections 2 through 9 of this act. Except as otherwise provided in this section, the 1974 election shall be conducted as provided in Chapter 439 of the Session Laws of 1969.

If a majority of the votes cast in the election are against nonpartisan election of the Rutherford County Board of Education, Sections 2 through 9 of this act shall be null and void.

Sec. 2. The Rutherford County Board of Education consists of six members who shall reside in and represent the districts set out in Section 3 of this act, but who shall be elected by the voters of Rutherford County voting at large. Members of the Board shall serve terms of four years beginning on the first Monday in December following their election and continuing until their successors are elected and qualified. The three members of the Board who were elected in 1970 pursuant to Chapter 439 of the Session Laws of 1969 shall continue to hold office until the first Monday in December, 1974, and the three members elected in 1972 pursuant to this act shall continue to hold office until the first Monday in December, 1976.

Sec. 3. For the purpose of electing members of the Board of Education, Rutherford County is divided into three districts as follows:

District I comprises the attendance area of Rutherfordton-Spindale Central High School and the attendance area of Union Mills High School, as these areas are defined from time to time by the Board of Education pursuant to law;

District II comprises the attendance area of East High School, as this area is defined from time to time by the Board of Education pursuant to law; and

District III comprises the attendance area of Chase High School as this

area is defined from time to time by the Board of Education pursuant to law.

Two members of the Board of Education shall reside in and represent each district. In the 1974 election, one member shall be elected to represent each district, and in the 1976 election, one member shall be elected to represent each district. Thereafter, members shall be elected pursuant to this act as the terms expire.

Sec. 4. Each person desiring to be a candidate for the Board of Education shall file a notice of candidacy stating his or her name, age, and the district seat for which he or she is filing. The filing deadline is the Friday preceding the sixth Saturday before the election, and the filing fee is five dollars (\$5.00). The election shall be nonpartisan, separate ballots shall be used, no party affiliation shall be indicated on the ballot for any candidate, and the election shall be decided by plurality without runoff. In all other respects, the election shall be conducted as provided in Chapter 163 of the General Statutes and rules and regulations of the State Board of Elections concerning the conduct of nonpartisan elections simultaneously with a general election.

Sec.. 5. On or before August 10 of each election year, the Rutherford County Board of Education shall deliver to the Chairman of the Rutherford County Board of Elections and cause to be posted on the courthouse door a map and description of the boundaries of the districts established in Section 3 of this act.

Sec. 6. Vacancies in the Board of Education shall be filled by appointment by majority vote of the remaining members of the Board for the remainder of the unexpired term. If for any reason the remaining members of the Board are unable to agree upon an appointment to fill a vacancy within 60 days after the vacancy occurs, the Clerk of Superior Court of Rutherford County shall fill the vacancy. A person appointed to fill a vacancy must reside in the district he is appointed to represent. If any person elected or appointed to the Board ceases to reside in the district he was elected or appointed to represent, the remaining members of the Board may declare his office vacant and proceed to fill the vacancy.

Sec. 7. Chapter 439 of the Session Laws of 1969 is repealed.

Sec. 8. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of May, 1973.

H. B. 897

CHAPTER 360

AN ACT TO PROVIDE A SUPPLEMENTAL RETIREMENT FUND FOR FIREMEN IN THE CITY OF MOREHEAD CITY AND TO MODIFY THE APPLICATION OF G.S. 118-5, 118-6, AND 118-7 TO THE CITY OF MOREHEAD CITY.

The General Assembly of North Carolina enacts:

Section 1. Supplemental Retirement Fund Created. The Board of Trustees of the Local Firemen's Relief Fund of the City of Morehead City, as established in accordance with G.S. 118-6, hereinafter called the Board of Trustees, shall create and maintain a separate fund to be called the Morehead City Firemen's Supplemental Retirement Fund, hereinafter called the Supplemental Retirement Fund, and shall maintain books of account for such fund separate from the books of account of the Firemen's Local Relief Fund of

the City of Morehead City, hereinafter called the Local Relief Fund. The Board of Trustees shall pay into the Supplemental Retirement Fund the funds prescribed by this act.

Sec. 2. Transfers of Funds and Disbursements. Notwithstanding the provisions of G.S. 118-7, the Board of Trustees of the Local Firemen's Relief Fund of the City of Morehead City shall:

(1) leave monies on deposit as is and use the interest on the now existing Firemen's Relief Fund plus payment received annually for North Carolina Firemen's Relief Fund to form a supplementary retirement;

(2) in each subsequent calendar year, and within 30 days after receipt from the North Carolina Insurance Commissioner of the annual funds paid to the Local Relief Fund by authority of G.S. 118-5, transfer to the Supplemental Retirement Fund such funds;

(3) at any time when the amount of funds in the Local Relief Fund shall, by reason of disbursements authorized by G.S. 118-7, be less than five thousand dollars (\$5,000) transfer from the Supplemental Retirement Fund to the Local Relief Fund an amount sufficient to maintain in the Local Relief Fund, the sum of five thousand dollars (\$5,000);

(4) beginning in July, 1973, and as soon as practical after the first day of each month, but in no event later than the fifth day of each month, disburse funds in the Supplemental Retirement Fund as supplemental retirement benefits in accordance with Section 3 of this act.

Sec. 3. Supplemental Retirement Benefits. (a) Each active fireman of the City who has retired subsequent to January 1, 1973, and who has obtained the age of 55 with 30 years of service or more as a City fireman, shall be entitled to and shall receive in each calendar month following the calendar month in which he retires a monthly supplemental retirement benefit equal to one dollar (\$1.00) for each full year of service as a fireman of the City; provided, in the event, in any calendar month, funds in the Supplemental Retirement Fund are not available to pay a benefit equal to one dollar (\$1.00) for each full year of service as a fireman of the City, the Board of Trustees shall specify a lesser amount to be paid.

(b) Any former fireman of the City who has served 20 years or more as an active City fireman and who is not otherwise entitled to supplemental retirement benefits under subsection (a) of this section, shall nevertheless be entitled to such benefits in any calendar year in which the Board of Trustees makes the following written findings of fact:

(1) that he initially retired from his position as fireman because of his inability, by reason of sickness or injury, to perform the normal duties of an active fireman; and

(2) that, within 30 days prior to or following his initial retirement as a fireman, at least two physicians licensed to practice medicine in North Carolina certified that he was at such time, unable by reason of sickness or injury, to perform the normal duties of an active fireman; and

(3) that, since the preceding January 1, at least one physician licensed to practice medicine in North Carolina certified that he remains unable, by reason of sickness or injury, to perform the normal duties of an active fireman.

Sec. 4. Investment of Funds. The Board of Trustees is hereby authorized to invest any funds, either of the Local Relief Fund or the Supplemental Retirement Fund, in any investment named in or authorized by G.S. 159-30,

only in accordance with the provisions thereof, and is hereby directed to invest all of the funds of the Supplemental Retirement Fund in one or more of such investments.

Sec. 5. Acceptance of Gifts. The Board of Trustees is hereby authorized to accept any gift, grant, bequest or donation of money for the use of the Supplemental Retirement Fund.

Sec. 6. Bond of Treasurer. The Board of Trustees shall bond the treasurer of the Local Relief Fund with a good and sufficient bond, in an amount at least equal to the amount of funds in his control, payable to the Board of Trustees, and conditioned upon the faithful performance of his duties; such bond shall be in lieu of the bond required by G.S. 118-6. The Board of Trustees shall pay from the Supplemental Retirement Fund the premiums on the bond of the treasurer.

Sec. 7. If any provision of this act shall be declared invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions hereof which can be given effect without the invalid provision, and to this end the provisions of this act are declared to be severable.

Sec. 8. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of May, 1973.

H. B. 922

CHAPTER 361

AN ACT TO INCREASE THE NUMBER OF TRUSTEES OF REX HOSPITAL.

The General Assembly of North Carolina enacts:

Section 1. Chapter 6, Private Laws of North Carolina 1840-1841, as amended by Chapter 98, Public-Local Laws of North Carolina 1939, is hereby amended as follows:

(a) Rewrite Section II to read as follows:

"Effective June 1, 1973, the number of Trustees constituting the 'Trustees of Rex Hospital' shall be increased from five to seven and the two additional Trustees shall be appointed in the same manner as herein provided for the filling of vacancies. When any vacancy or vacancies may happen by death, resignation or removal from the City of Raleigh, of any Trustee or Trustees, or from any other cause, his or their places shall be filled by nomination from the City Council of the City of Raleigh with the approval of the Senior Resident Judge of the Superior Court of Wake County."

(b) Amend Section III to strike the word "Commissioners" in the first sentence and substitute in lieu thereof the words "City Council."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of May, 1973.

H. B. 941

CHAPTER 362

AN ACT TO AUTHORIZE THE CITY OF FAYETTEVILLE TO COOPERATE WITH PRIVATE CORPORATIONS FOR INDUSTRIAL DEVELOPMENT PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. The governing body of the City of Fayetteville is hereby authorized to expend nontax funds for the purpose of aiding and encouraging the location of manufacturing enterprises, industrial and commercial plants and for making industrial surveys, and for such other purposes as will increase the population, taxable property, jobs, industrial and business prospects in or near the city. In the exercise of this authority, the city may authorize the expenditure of such funds through its agencies and departments and it may join and cooperate with private non-profit industrial development corporations in carrying out the purposes herein authorized.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of May, 1973.

H. B. 1026

CHAPTER 363

AN ACT TO EXCLUDE A CERTAIN AREA OF LAND FROM THE CORPORATE LIMITS OF THE CITY OF ASHEBORO.

The General Assembly of North Carolina enacts:

Section 1. The property herein described is hereby excluded from the corporate limits of the City of Asheboro.

"BEGINNING at an existing corporate limits corner, north of Hub Morris Road and east of Forest Park Drive, having a coordinate value of N. 737,473.07, E. 1,763,117.77; thence S. 00° 30' W. 1,875.00 feet with the existing corporate limits line to a point on the north side of Hub Morris Road, approximately the northern right-of-way line; thence N. 89° 30' W. 375.00 feet to a point on the south side of Hub Morris Road, approximately the southern right-of-way line of Hub Morris Road, on the east side of Forest Park Drive; thence N. 00° 30' E. 1,875.00 feet to a point in the existing corporate limits line, on the west side of Forest Park Drive; thence S. 89° 30' E. 375.00 feet with the existing corporate limits line to the point of beginning. Said description contains 16.14 acres, more or less."

Sec. 2. This act shall be retroactive from July 1, 1970.

Sec. 3. This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of May, 1973.

H. B. 1082

CHAPTER 364

AN ACT TO AUTHORIZE THE TOWN OF WENDELL TO EXCHANGE REAL PROPERTY WITH THE WENDELL CHAMBER OF COMMERCE.

The General Assembly of North Carolina enacts:

Section 1. The Town of Wendell is hereby authorized to convey that parcel of real estate described in a deed dated January 17, 1973, from Rodney R. Goodman, Jr., single, to the Town of Wendell, a municipal corporation, and recorded in Book 2132 at Page 11, of the Wake County Registry to the Wendell Chamber of Commerce, Inc., in exchange for the conveyance by the Wendell Chamber of Commerce, Inc., to the Town of Wendell that parcel of real property described in a deed dated May 8, 1970, from Lorena Davis Wall and husband, Alexander Wall, to the Wendell Chamber of Commerce and recorded in Book 1928, Page 59, of the Wake County Registry.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of May, 1973.

H. B. 1104

CHAPTER 365

AN ACT TO PROVIDE FOR THE NOMINATION AND ELECTION OF THE BOARD OF COUNTY COMMISSIONERS OF RUTHERFORD COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Section 4 of Chapter 75, Public-Local Laws of 1933 is rewritten to read:

"Sec. 4. Beginning with the primary to be held for county officers in Rutherford County in 1974, candidates for the County Board of Commissioners shall be nominated from the five districts described in Section 2 above. Candidates must be residents of the district from which they seek nomination and election. At the time of filing notice of candidacy, the candidate shall indicate thereon the number of the district from which he is running. The ballot in the primary shall indicate the candidate's party affiliation and the district for which he seeks nomination. Instructions on the ballot shall inform the voter that he may vote for one candidate from each district. Candidates in the primary shall be voted on by the qualified voters of the entire county.

The candidate for each political party who receives a majority of the votes cast for candidates in the district from which he seeks nomination shall be declared nominated."

Sec. 2. Section 5 of Chapter 75, Public-Local Laws of 1933 is rewritten to read as follows:

"Sec. 5. The candidates nominated from each district shall be voted on in the general election by the qualified voters of the entire county. Beginning with the general election for county offices to be held in 1974, the candidate from each district receiving the highest number of votes cast for candidates from that district shall be elected. The three candidates receiving the highest number of votes shall be elected for terms of four years, and the two candidates receiving the next highest number of votes shall be elected for terms of two years.

Thereafter, as the terms of members expire, their successors shall be elected for terms of four years.

Vacancies occurring in the board of county commissioners, other than expiration of term, shall be filled for the unexpired term by appointment by the remaining members of the board.

The general election ballot shall indicate the district from which each candidate is running, and the instructions shall inform the voter that he may vote for one candidate in each district."

Sec. 3. The terms of the incumbent members of the Rutherford County Board of Commissioners are hereby extended or reduced so that the terms of all incumbents shall expire on the first Monday in December 1974.

Sec. 4. Section 1 of Chapter 443, Public-Local Laws of 1921; Chapter 206, Public-Local Laws of 1925; Chapter 557, Session Laws of 1955; Chapter 518, Session Laws of 1963, are hereby repealed, and all laws and clauses of laws in conflict with this act are repealed to the extent of such conflict.

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of May, 1973.

H. B. 1105

CHAPTER 366

AN ACT TO APPOINT THE MEMBERS OF THE TRYON CITY BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. That Woodrow L. Hague, Dr. J. T. Mize, Russell Constance, Guynell Smith and Roy Berry shall be, and they are hereby, appointed members of the Tryon City Board of Education, each to serve for a term of two years or until their successors are duly qualified and appointed.

Sec. 2. That the term of office of each of said members shall date from and be effective as of the first Monday in April, 1973.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of May, 1973.

H. B. 1147

CHAPTER 367

AN ACT TO PROVIDE STAGGERED TERMS FOR THE MEMBERS OF THE WEST SMITHFIELD SANITARY DISTRICT BOARD.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-126 is hereby amended by adding at the end thereof a new paragraph to read:

"Beginning with the election to be held in the West Smithfield Sanitary District in November, 1973, the five Board members shall be elected for staggered terms of four years. The three candidates receiving the highest number of votes shall be elected for terms of four years, and the two candidates receiving the next highest number of votes shall be elected for terms of two

years. Thereafter, as the terms of the members expire, their successors shall be elected for terms of four years."

Sec. 2. This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of May, 1973.

S. B. 453

CHAPTER 368

AN ACT TO MAKE PART 3 OF ARTICLE 36 OF CHAPTER 160 OF THE GENERAL STATUTES APPLICABLE TO THE CITY OF ROANOKE RAPIDS IN HALIFAX COUNTY SUBJECT TO A VOTE OF THE PEOPLE IN ROANOKE RAPIDS TOWNSHIP.

The General Assembly of North Carolina enacts:

Section 1. If approved pursuant to Section 2 of this act, G.S. 160-453.24 is hereby amended by striking the period at the end of the first paragraph and inserting in lieu thereof a comma and the following: "provided the provisions of this Part shall apply to the City of Roanoke Rapids in Halifax County."

Sec. 2. The Halifax County Board of Elections shall at the Municipal Election to be held on Tuesday, November 6, 1973, prepare and submit to the voters of Roanoke Rapids Township a ballot with the question presented: "FOR STATEWIDE ANNEXATION LAW" and "AGAINST STATEWIDE ANNEXATION LAW". The election shall be conducted in accordance with the laws, rules and regulations governing elections of municipalities insofar as practical. No absentee ballots shall be permitted. No new or special registration shall be required and all persons eligible to vote in said Township in County elections shall be eligible to vote on this question. If a majority of those voting vote "FOR STATEWIDE ANNEXATION LAW", then G.S. 160-453.24 shall be amended as provided in Section 1 of this act. If a majority of those voting vote "AGAINST STATEWIDE ANNEXATION LAW", G.S. 160-453.24 shall not be so amended.

Sec. 3. This act shall apply only to the City of Roanoke Rapids.

Sec. 4. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 5. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 8th day of May, 1973.

S. B. 510

CHAPTER 369

AN ACT TO ANNEX CERTAIN LANDS TO THE TOWN OF GATESVILLE.

The General Assembly of North Carolina enacts:

Section 1. That area shown on the map of the Town of Gatesville, North Carolina, dated April 17, 1971, prepared by Graham Pollock, Registered Surveyor, by line "A", "B", "C" and "D" as the proposed 1973 extension of the Town Limits, is hereby annexed to the Town of Gatesville.

Sec. 2. From and after the effective date of this act, the citizens and

property in the annexed area shall be subject to the provisions of G.S. 160-452(e).

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of May, 1973.

S. B. 511

CHAPTER 370**AN ACT TO AMEND THE CHARTER OF THE TOWN OF WINFALL IN PERQUIMANS COUNTY.**

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 342, Session Laws of 1971, is hereby rewritten to read as follows:

“Sec. 2. The corporate limits of the Town of Winfall shall be as follows:

‘Beginning at the point of intersection of the East side of the Norfolk Southern Railroad right-of-way with the North side of Perquimans River, thence southeastwardly and southwardly along the East side of the Perquimans River to the North line of the Joe Towe property, thence eastwardly along said property line 550 feet more or less to a point 10 feet distant from the West right-of-way line of N. C. Highway No. 37 measured at right angles thereto, thence southwardly parallel to said highway and U. S. Highway No. 17 and distant 10 feet therefrom a distance of 360 feet, thence southeastwardly crossing U. S. Highway No. 17 to the northeast corner of the T. J. Nixon Estate property, same being the northwest corner of the J. E. Winslow property, thence southeastwardly along the Winslow line to the Hollowell property, thence southwardly along the Hollowell property and the various courses of the swamp to the North side of the Perquimans River, thence eastwardly along the North side of the Perquimans River and the West side of Vosses Creek to a point on the West side of Vosses Creek which is southwardly 700 feet from the South side of the right-of-way of U. S. Highway No. 17 measured at right angles to said right-of-way, thence eastwardly parallel to the South side of said highway across Vosses Creek to the East side of Vosses Creek; thence southwardly along the East side of Vosses Creek to the Perquimans River; thence eastwardly and southwardly along the Perquimans River to the West right-of-way of the new By-Pass of U. S. Highway No. 17 at the new bridge that crosses the Perquimans River; thence northeastwardly binding the western right-of-way of the new By-Pass of U. S. Highway No. 17 across the New Hope Road to a point which is 300 feet from the Southern boundary of old U. S. Highway 17 which leads to Hertford, when measured at a right angle to old U. S. Highway 17, which point is in the Northwestern intersection of the New Hope Road with U. S. Highway 17 by-pass; thence Eastwardly across U. S. Highway 17 by-pass parallel to and distant 300 feet from the South right-of-way of said highway to the Northwestern boundary of N. C. Road 1301; thence Northeastwardly binding N. C. Road 1301 and crossing U. S. Highway 17 to the Southwestern boundary of N. C. Road 1220 at the intersection of N. C. Road 1220 with U. S. Highway 17; thence Northwestwardly along the Southwestern right-of-way line of N. C. Road 1220 to a point 200 feet from the Northern boundary of U. S. Highway 17 when measured at a right angle from the right-of-way of U. S. Highway 17; thence Westwardly parallel to and distant 200 feet from the Northern right-of-way line of said highway to the East line of the N. C. Highway Commission

property; thence Northwardly along said N. C. State Highway Commission property 300 feet; thence Westwardly along said N. C. Highway Commission property 620 feet more or less to an angle therein; thence Southwardly 300 feet along the West line of the N. C. Highway Commission property to a point 200 feet from the Northern boundary of U. S. Highway 17; thence Westwardly parallel to and distant 200 feet from said highway crossing Vosses Creek to a point near the intersection of old U. S. Highway 17 and N. C. Highway 37, which point is 200 feet from the Northern right-of-way line of old U. S. Highway 17 and 200 feet from the Eastern boundary of N. C. Highway 37 when measured at a right angle from each highway; thence Northwardly parallel to and distant 200 feet from N. C. Highway 37 to the Southern line of property of the Town of Winfall on which is situated the Water Plant; thence binding the property of the Town of Winfall Eastwardly, Northwardly, Northwestwardly, and Westwardly to the Eastern boundary of the property of Perquimans County Central Grammar School; thence Northwardly binding the property of the Perquimans County Central Grammar School to a point in the circumference of a circle having a radius of 1320 feet and the center of the circle being the point of intersection of the center line of the Norfolk Southern Railroad with the center line of Main Street in the Town of Winfall, thence eastwardly, northwardly and westwardly along the arc of said circle a distance of 5925 feet more or less to a point on the North side of King Street, thence westwardly along King Street 260 feet more or less to a point in a line which runs northwestwardly parallel to N. C. Highway No. 37 and distant 500 feet therefrom, thence northwestwardly along said line parallel to N. C. Highway No. 37 and distant 500 feet therefrom a distance of 1090 feet more or less to the South line of the Perquimans County Union School property, thence southwestwardly along the South line of said school property and the westwardly prolongation thereof to and across N. C. Highway No. 37 a distance of 1060 feet to a point 500 feet westwardly from the West line of N. C. Highway No. 37, thence southwardly parallel to the West side of N. C. Highway No. 37 a distance of 1460 feet more or less to a point in the northwestwardly prolongation of a line running parallel to the South side of River Street and distant 100 feet southwardly therefrom, thence southeastwardly along said line to a point in the perimeter of the aforementioned circle, thence southeastwardly along the arc of said circle to the East side of the right-of-way of the Norfolk Southern Railroad right-of-way, thence southwestwardly along the East side of the right-of-way of the Norfolk Southern Railroad a distance of 1390 feet to the S. P. Jessup property, thence southeastwardly along said Jessup property 640 feet to a point 10 feet westwardly from the West right-of-way line of N. C. Highway No. 37 measured at right angles thereto, thence southwardly parallel to the West line of N. C. Highway No. 37 a distance of 724 feet to the Tom White Estate property, thence northwestwardly along the Tom White Estate property 845 feet more or less to the East line of the Norfolk Southern Railroad right-of-way, thence southwardly along the East line of the Norfolk Southern Railroad right-of-way a distance of 1308 feet to the point of beginning."

Sec. 2. Section 3 of Chapter 342, Session Laws of 1971, is hereby amended by striking from the first line thereof the word "three" and inserting in lieu thereof the word "four". Section 3 is further amended by striking from the third line thereof the words and figures, "Article 3 of Chapter 160" and

inserting in lieu thereof the words and figures, "Article 23 and 24 of Chapter 160A".

Sec. 3. Section 6 of Chapter 342, Session Laws of 1971, is hereby amended by striking from lines five and six, "G.S. 160-402", and inserting in lieu thereof the words "the general laws".

Sec. 4. Section 8 of Chapter 342, Session Laws of 1971, is hereby amended by striking from line two, "G.S. 160-9.1" and inserting in lieu thereof the words "the general laws".

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of May, 1973.

S. B. 525

CHAPTER 371**AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE CITY OF RAEFORD.**

The General Assembly of North Carolina enacts:

Section 1. The Charter of the City of Raeford is hereby revised and consolidated to read as follows:

"THE CHARTER OF THE CITY OF RAEFORD

"CHAPTER 1. INCORPORATION AND CORPORATE POWERS

"1-1. *Incorporation and Corporate Powers.* The inhabitants of the City of Raeford are a body corporate and politic under the name of the City of Raeford. Under that name they have all the powers, duties, rights, privileges and immunities conferred and imposed on cities by the general law of North Carolina.

"CHAPTER 2. CORPORATE BOUNDARIES

"2-1. *City Boundaries.* The boundaries of the City of Raeford are set out on a map entitled 'Boundary Map of the City of Raeford, North Carolina.' The map is maintained in the Office of the City Manager.

"CHAPTER 3. GOVERNING BODY

"3-1. *Structure of Governing Body; Number of Members.* The governing body of the City of Raeford is the City Council, which has five members, and the Mayor.

"3-2. *Manner of Election of Council.* The qualified voters of the entire City elect the members of the Council.

"3-3. *Term of Office of Members of the Council.* Members of the Council are elected to two-year terms.

"3-4. *Election of Mayor; Term of Office.* The qualified voters of the entire City elect the Mayor. He is elected to a two-year term of office.

"CHAPTER 4. ELECTIONS

"4-1. *Conduct of City Elections.* City officials shall be elected on a nonpartisan basis and the results determined by plurality, as provided by G.S. 163-292.

"CHAPTER 5. ADMINISTRATION

"5-1. *City to Operate Under Council-Manager Plan.* The City of Raeford operates under the council-manager plan as provided in the general law of North Carolina relating to cities.

"CHAPTER 6. STREET IMPROVEMENTS

"6-1. *Special Assessments Authorized Without Petition.* The City of Raeford is authorized to make special assessments against benefited property within its corporate limits for constructing, reconstructing, paving, widening, installing curbs and gutters, and otherwise building and improving streets without the necessity of a petition therefor from the affected property owners.

"CHAPTER 7. EMINENT DOMAIN

"7-1. *Alternate Condemnation Procedures Authorized.* In exercising the power of eminent domain, the City of Raeford may, in its discretion, use the procedures of Article 9 of Chapter 136 of the General Statutes, or the procedures of any general law or local act applicable to the City.

"CHAPTER 8. CLAIMS AGAINST THE CITY

"8-1. *Presentation of Claims; Suit Upon Claims.* (a) All claims or demands against the City of Raeford arising in tort or in contract shall be presented to the City Council in writing, signed by the claimant, his attorney or agent, within 90 days after the claim or demand is due or the cause of action accrues, and no suit or action shall be brought thereon within 30 days or after the expiration of 12 months from the time said claim or demand is so presented. Unless the claim or demand is so presented within 90 days after the cause of action accrues, and unless suit is brought within 12 months thereafter, any action thereon is barred.

(b) No action shall be instituted against the City for damages to or compensation for real property taken or used by the City for any public purpose, or for the ejectment of the City therefrom, or to remove a cloud upon the title thereof, unless, within two years after such alleged use, the owner, his executor, administrator, guardian, or next friend, shall have given notice in writing to the City Council of the claim, stating in the notice the date that the alleged use commenced, a description of property alleged to have been used, and the amount of the damage or compensation claimed.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, if a complainant suffers from physical or mental incapacity that renders it impossible for him to give notice, his action shall not be barred if notice of claim is given by him or on his behalf within six months after the termination of his incapacity; provided, that minority shall not of itself constitute physical or mental incapacity. If the complainant is a minor, his action shall not be barred if notice of claim is given on his behalf within three years after the occurrence of the infliction of the injury complained of; or, if the minor suffers from physical or mental incapacity that renders it impossible for him to give notice, his action shall not be barred if notice of claim is given on his behalf within six months after termination of the incapacity, or within three years after the occurrence of the infliction of the injury complained of, whichever is the longer period. The City may, at any time, request the appointment of a next friend to represent any person having a potential claim against the City and known to be suffering from physical or mental incapacity."

Sec. 2. The purpose of this act is to revise the Charter of the City of Raeford and to consolidate herein certain acts concerning the property, affairs, and government of the City. It is intended to continue without interruption those provisions of prior acts which are consolidated into this act, so that all rights and liabilities that have accrued are preserved and may be enforced.

Sec. 3. This act shall not be deemed to repeal, modify, or in any manner affect any of the following acts, portions of acts, or amendments thereto,

whether or not such acts, portions of acts, or amendments are expressly set forth herein:

(a) Any acts concerning the property, affairs, or government of public schools in the City of Raeford;

(b) Any acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind.

Sec. 4. The following acts or portions of acts, having served the purposes for which they were enacted, or having been consolidated into this act are hereby repealed:

CHAPTER	LAWS
125	Pr. 1901
64	Pr. 1903
133	Pr. 1905
643	P.L. 1913
588	P.L. 1915
599	P.L. 1919
199	Pr. 1927
19	Pr. 1929
73	Pr. 1933
14	Pr. 1935
483	P.L. 1939
134	S.L. 1949
787	S.L. 1949
689	S.L. 1955
723	S.L. 1955
132	S.L. 1959
180	S.L. 1961
44	S.L. 1963
244	S.L. 1969

Sec. 5. No provision of this act is intended, nor shall be construed, to affect, in any way, any rights or interests (whether public or private):

(a) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act;

(b) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken (including the adoption of ordinances or resolutions) pursuant to or within the scope of any provision of law repealed by this act.

Sec. 6. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(a) The repeal herein of any act repealing such law, or

(b) Any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

Sec. 7. (a) All existing ordinances and resolutions of the City of Raeford and all existing rules or regulations of departments or agencies of the City of Raeford not inconsistent with the provisions of this act, shall continue in full force and effect until repealed, modified or amended.

(b) No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act by or against the City of Raeford or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

Sec. 8. *Severability.* If any provision of this act or the application thereof

to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 9. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 10. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of May, 1973.

S. B. 854

CHAPTER 372

AN ACT TO AMEND CHAPTER 62 OF THE GENERAL STATUTES TO PROVIDE THAT THE TOWN OF PINEVILLE'S TELEPHONE SYSTEM SHALL BE SUBJECT TO THE REGULATORY JURISDICTION OF THE NORTH CAROLINA UTILITIES COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 62-3(23) is hereby amended by adding a new paragraph at the end thereof to read as follows:

"f. The term 'Public Utility' shall include the Town of Pineville insofar as said Town supplies telephone services to the public for compensation. The territory to be served by the Town of Pineville in furnishing telephone services, subject to the Public Utilities Act, shall include the Town limits as they exist on the date of enactment of this act; and shall also include the area proposed to be annexed under the Town's ordinance adopted May 3, 1971, until January 1, 1975."

Sec. 2. The North Carolina Utilities Commission shall grant a franchise to the Town of Pineville for the area within the present Town limits; further, the Utilities Commission shall grant an interim franchise for the area proposed to be annexed, until January 1, 1975, by which time the Town shall apply for a certificate of public convenience and necessity to operate in the area proposed to be annexed, and shall be granted such certificate of public convenience and necessity by the North Carolina Utilities Commission upon a showing by the Town of Pineville that it is fit, willing and able to provide adequate telephone services on a continuing basis to meet the needs of said area; provided further, that the Town of Pineville may continue to serve its existing consumers outside of the present corporate limits so long as these consumers desire to have the Town of Pineville's telephone service.

Sec. 3. In order to provide a period for the development by the Town of Pineville of records of the kind which may be required by the North Carolina Utilities Commission, the Utilities Commission shall have no authority in respect to the rates or charges for the telephone service supplied by the Town of Pineville to the public for compensation until July 1, 1974.

Sec. 4. This act shall be in full force and effect upon ratification.

In the General Assembly read three times and ratified, this the 8th day of May, 1973.

H. B. 290

CHAPTER 373

AN ACT TO PROVIDE FOR AN ADDITIONAL FULL-TIME
MAGISTRATE IN NEW HANOVER COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-133 is amended by deleting the number "8" in the second column following the words "New Hanover", and inserting in lieu thereof the number "9".

Sec. 2. It is the purpose and intent of this act to provide for an additional magistrate in New Hanover County.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of May, 1973.

H. B. 706

CHAPTER 374

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE
TOWN OF EAST SPENCER AND TO REPEAL PRIOR CHARTER
ACTS.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of East Spencer is hereby revised and consolidated to read as follows:

"THE CHARTER OF THE TOWN OF EAST SPENCER

"ARTICLE I. INCORPORATION AND CORPORATE POWERS

"Section 1.1. *Incorporation and General Powers.* The Town of East Spencer shall continue to be a body politic and corporate under the name of the 'Town of East Spencer', and shall continue to be vested with all property and rights which now belong to the Town; shall have perpetual succession; may have a common seal and alter and renew the same at pleasure; may sue and be sued; may contract, may acquire and hold all such property, real and personal, as may be devised, bequeathed, sold or in any manner conveyed or dedicated to it, or otherwise acquired by it, and may from time to time hold or invest, sell, or dispose of the same; and shall have and may exercise in conformity with this Charter all municipal powers, functions, rights, privileges, and immunities of every name and nature.

"Sec. 1.2. *Exercise of Powers.* All powers, functions, rights, privileges, and immunities of the Town, its officers, agencies, or employees, shall be carried into execution as provided by this Charter, or, if this Charter makes no provision, as provided by ordinance or resolution of the Board of Aldermen and as provided by the general laws of North Carolina pertaining to municipal corporations.

"Sec. 1.3. *Enumerated Powers not Exclusive.* The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive but, in addition, to the powers enumerated herein or implied hereby, or those appropriate to the exercise of such powers, the Town of East Spencer shall have and may exercise all powers which are granted to municipal corporations by the general laws of North Carolina and all powers which, under the Constitution of North Carolina, it would be competent for this Charter specifically to enumerate.

"ARTICLE II. CORPORATE BOUNDARIES

"Sec. 2.1. *Existing Corporate Boundaries.* (a) The corporate limits of the Town shall be those existing at the time of the ratification of this Charter and as the same may be altered from time to time in accordance with law. There shall be prepared a map to be designated 'Map of the Town of East Spencer Corporate Limits' showing the corporate limits as the same may exist as of the effective date of this Charter. There shall be also prepared a written description of the corporate limits as shown on said map to be designated 'Description of East Spencer Corporate Limits'. Said map and description shall be retained permanently in the office of the Town Clerk as the official map and a description of the corporate limits of the Town. Immediately upon alteration of the corporate limits made pursuant to law from time to time the Town Clerk shall indicate such alteration by having made appropriate changes and/or additions to said official map and description. Photographic types or other copies of said official map or description certified as by law provided for the certification of ordinances shall be admitted in evidence in all courts and shall have the same force and effect as would the official map or description.

(b) The Town Clerk shall require the redrawing of the official map and the rewriting of the official description as may from time to time be required. A redrawn map and a rewritten description shall supersede for all purposes the earlier maps and descriptions which are respectively replaced.

"Sec. 2.2. *Extension of Corporate Boundaries.* All extensions of the corporate boundaries shall be governed by the General Statutes of North Carolina.

"ARTICLE III. MAYOR AND BOARD OF ALDERMEN

"Sec. 3.1. *Composition of Board of Aldermen.* The Board of Aldermen shall consist of six members to be elected by the qualified voters of the Town, voting at large in the manner provided in Article IV of this Charter.

"Sec. 3.2. *Mayor and Mayor Pro Tempore.* The Mayor shall be elected by and from the qualified voters of the Town voting at large in the manner provided in Article IV of this Charter. The Mayor shall be the official head of the Town government and shall preside at all meetings of the Board of Aldermen. When there is an equal division on a question, the Mayor shall resolve the deadlock by his vote, but he shall vote in no other case. The Mayor shall exercise such powers and perform such duties as are or may be conferred upon him by the general laws of North Carolina, by this Charter, and by the ordinances of the Town. The Board of Aldermen shall choose one of its number to act as Mayor Pro Tempore, and he shall perform the duties of the Mayor in the Mayor's absence or disability. The Mayor Pro Tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the Board.

"Sec. 3.3. *Terms; Qualifications; Vacancies.* (a) The members of the Board of Aldermen shall serve for terms of four years, except as provided by Article IV of this Charter, and the Mayor shall serve for a term of two years, beginning the day and hour of the organizational meeting following their election, as established by ordinance in accordance with this Charter; provided, they shall serve until their successors are elected and qualify.

(b) No person shall be eligible to be a candidate or be elected as Mayor or as a member of the Board of Aldermen or to serve in such capacity, unless he is a resident and a qualified voter of the Town.

(c) In the event a vacancy occurs in the office of Mayor or Alderman, the

Board shall by majority vote appoint some qualified person to fill the same for the remainder of the unexpired term.

"Sec. 3.4. *Organization of Board of Aldermen; Oaths of Office.* The Board of Aldermen shall meet and organize for the transaction of business at the first regularly scheduled meeting of the Board following each biennial election. Before entering upon their offices, the Mayor and each Alderman shall take, subscribe to and have entered upon the minutes of the Board the following oath of office:

'I, _____, do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office as _____, so help me, God.'

"Sec. 3.5. *Meetings of Board.* The Board of Aldermen shall fix a suitable time and place for its regular meetings, which shall be held at least as often as once monthly. Special meetings may be held according to the procedures and requirements designated by the general laws of North Carolina pertaining to special meetings of City Councils.

"Sec. 3.6. *Quorum; Votes.* (a) A majority of the members elected to the Board of Aldermen shall constitute a quorum for the conduct of business, but a less number may adjourn from time to time and compel the attendance of absent members in such manner as may be prescribed by ordinance.

(b) The affirmative vote of a majority of the members elected to the Board of Aldermen not excused from voting on the question in issue shall be necessary to adopt any ordinance, or any resolution or motion having the effect of an ordinance or authorize the expenditure of public funds, or make, ratify, or authorize any contract. All other matters to be voted upon shall be decided by a majority vote of those present and voting.

"Sec. 3.7. *Ordinances and Resolutions.* The adoption, amendment, repeal, pleading, or proving of ordinances shall be in accordance with the applicable provisions of the general laws of North Carolina not inconsistent with this Charter. The ayes and noes shall be taken upon all ordinances and resolutions and entered upon the minutes of the Board. The enacting clause of all ordinances shall be: 'Be it ordained by the Board of Aldermen of the Town of East Spencer'. All ordinances and resolutions shall take effect upon adoption unless otherwise provided therein.

"ARTICLE IV. ELECTIONS

"Sec. 4.1. *Regular Municipal Elections.* Regular municipal elections shall be held biennially in odd-numbered years on the day set by general law for municipal elections. The elections shall be nonpartisan and decided by simple plurality. In the 1973 regular municipal election, there shall be elected three Aldermen for terms of four years and three Aldermen for terms of two years. In such election the three candidates for Alderman who receive the largest number of votes shall be declared elected for terms of four years and the three candidates for Alderman who receive the next largest number of votes shall be declared elected for terms of two years. Thereafter, as the terms of members expire, their successors shall be elected for terms of four years. In the 1973 regular municipal election and biennially thereafter, there shall be elected a Mayor for a term of two years. The candidate for Mayor receiving the highest number of votes shall be declared elected.

"Sec. 4.2. *Regulation of Elections.* All Town elections shall be conducted by

the County Board of Elections in accordance with the general laws of North Carolina relating to municipal elections.

“ARTICLE V. TOWN ATTORNEY

“Sec. 5.1. *Appointment; Qualifications; Term; Compensation.* The Board of Aldermen may appoint a Town Attorney who shall be an attorney at law licensed to engage in the practice of law in North Carolina and who need not be a resident of the Town during his tenure. The Town Attorney shall serve at the pleasure of the Board and shall receive such compensation as the Board shall determine.

“Sec. 5.2. *Duties of Town Attorney.* It shall be the duty of the Town Attorney to prosecute and defend suits for and against the Town; to advise the Mayor, Board of Aldermen, and other Town officials with respect to the affairs of the Town; to draft all legal documents relating to the affairs of the Town; to draft proposed ordinances when requested to do so; to inspect and pass upon all agreements, contracts, franchises and other instruments with which the Town may be concerned; to attend all meetings of the Board of Aldermen when required by the Board; and to perform such other duties as may be required of him by virtue of his position as Town Attorney.

“ARTICLE VI. ADMINISTRATIVE OFFICERS AND EMPLOYEES

“Sec. 6.1. *Town Clerk.* The Board of Aldermen shall appoint a Town Clerk to keep a journal of the proceedings of the Board of Aldermen and to maintain in a safe place all records and documents pertaining to the affairs of the Town, and to perform such other duties as may be required by law or as the Board of Aldermen may direct.

“Sec. 6.2. *Town Tax Collector.* The Board of Aldermen shall appoint a Tax Collector to collect all taxes, licenses, fees and other moneys belonging to the Town, subject to the provisions of this Charter and the ordinances of the Town, and he shall diligently comply with and enforce all the general laws of North Carolina relating to the collection, sale, and foreclosure of taxes by municipalities.

“Sec. 6.3. *Town Finance Officer.* The Board of Aldermen shall appoint a Town Finance Officer to perform the duties of the Finance Officer as required by the Local Government Budget and Fiscal Control Act.

“Sec. 6.4. *Town Budget Officer.* The Board of Aldermen shall appoint a Town Budget Officer to perform the duties of the Budget Officer as required by the Local Government Budget and Fiscal Control Act.

“Sec. 6.5. *Consolidation of Functions.* The Board of Aldermen may consolidate any two or more of the positions of Town Clerk, Town Tax Collector, and Town Finance Officer, or may assign the functions of any one or more of these positions to the holder or holders of any other of these positions.

“ARTICLE VII. FINANCE

“Sec. 7.1. *Custody of Town Money.* All moneys received by the Town for or in connection with the business of the Town government shall be paid promptly into the Town depository or depositories. Such institutions shall be designated by the Town Board in accordance with the regulations and subject to the requirements as to security for deposits and interest thereon as may be established by the General Statutes of North Carolina. All interest on moneys belonging to the Town shall accrue to the benefit of the Town. All moneys

belonging to the Town shall be disbursed in accordance with the provisions of the Local Government Budget and Fiscal Control Act.

"Sec. 7.2. *Independent Audit.* As soon as possible after the close of each fiscal year, an independent audit shall be made of all books and accounts of the Town government by a certified public accountant or an accountant certified by the Local Government Commission. The audit shall be secured in accordance with the provisions of the Local Government Budget and Fiscal Control Act.

"ARTICLE VIII. POLICE

"Sec. 8.1. *Jurisdiction.* The jurisdiction of the police force is hereby extended to include all Town-owned property and facilities whether located within or outside the corporate limits, and all members of the police force shall have upon and within such property and facilities all rights, power and authority as they have within the corporate limits.

"ARTICLE IX. STREET AND SIDEWALK IMPROVEMENTS

"Sec. 9.1. *Street Improvements; Assessment of Costs.* In addition to any authority which is now or may hereafter be granted by general law to the Town for making street improvements the Board of Aldermen is hereby authorized to make street improvements and to assess the cost thereof against abutting property owners in accordance with the provisions of this Article.

"Sec. 9.2. *When Petition Unnecessary.* The Board of Aldermen may order street improvements and assess the cost thereof, exclusive of the costs incurred at street intersections, against the abutting property owners, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the North Carolina General Statutes, without the necessity of a petition, upon the finding by the Board as a fact:

(a) That the street improvement project does not exceed 1,200 linear feet, and

(b) That such street or part thereof is unsafe for vehicular traffic and it is in the public interest to make such improvement, or

(c) That it is in the public interest to connect two streets, or portions of a street already improved, or

(d) That it is in the public interest to widen a street, or part thereof, which is already improved; provided, that assessments for widening any street or portion of street without a petition shall be limited to the cost of widening and otherwise improving such street in accordance with the street classification and improvement standards established by the Town's thoroughfare or major street plan for the particular street or part thereof to be widened and improved under the authority granted by this Article.

"Sec. 9.3. *Street Improvement Defined.* For the purposes of this Article, the term 'street improvement' shall include grading, regrading, surfacing, resurfacing, widening, paving, repaving, the acquisition of right-of-way, and the construction or reconstruction of curbs, gutters and street drainage facilities.

"Sec. 9.4. *Sidewalks, Assessment of Costs.* In addition to any authority which is now or may hereafter be granted by general law to the Town for making sidewalk improvements, the Board of Aldermen is hereby authorized, without the necessity of a petition, to make or to order to be made sidewalk improvements or repairs according to standards and specifications of the Town, and to assess the total cost thereof against abutting property owners, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the North Carolina General Statutes; provided, however, that regardless of the

assessment basis or bases employed, the Board of Aldermen may order the cost of sidewalk improvements made only on one side of a street to be assessed against property owners abutting both sides of such street.

“Sec. 9.5. *Assessment Procedure.* In ordering street and sidewalk improvements without a petition and assessing the cost thereof under authority of this Article, the Board of Aldermen shall comply with the procedure provided by Article 10, Chapter 160A of the General Statutes, except those provisions relating to the petition of property owners and the sufficiency thereof.

“Sec. 9.6. *Effect of Assessments.* The effect of the act of levying assessments under the authority of this Article shall for all purposes be the same as if the assessments were levied under authority of Article 10 of Chapter 160A of the General Statutes.

“Sec. 9.7. *Acceptance of Conveyance in Satisfaction of Assessments.* The Town Tax Collector or other official or employee of the Town having charge of the collection of special assessments, shall have the right, power, and authority, by and with the approval of the Board of Aldermen first obtained and had, to receive and accept a fee simple conveyance to the Town of any lot or parcel of land in the Town, free and clear of other encumbrances, in full settlement and satisfaction of all street and sidewalk assessments outstanding and unpaid against such property. Such right, power, and authority, however, shall be limited to a conveyance of the whole of the lot or parcel of land against which the particular assessment or assessments involved were levied. No lot or tract of land may be divided and no such right, power, and authority exercised as to a part, only, of the property originally embraced in and covered by said assessment or assessments. In the case of such conveyance, it shall not be necessary that the street or sidewalk assessment or assessments against the property be foreclosed; but the Town, upon the receipt of any such conveyance, shall become and be the absolute fee simple owner of the property, as fully to all intents and purposes as if purchased in and through foreclosure proceedings for the enforcement of such street and sidewalk assessment or assessments.

“ARTICLE X. CLAIMS AGAINST THE TOWN

“Sec. 10.1. *Presentation of Claims; Suit upon Claims.* (a) All claims or demands against the Town of East Spencer arising in tort or in contract shall be presented to the Board of Aldermen in writing, signed by the claimant, his attorney or agent, within 90 days after the claim or demand is due or the cause of action accrues, and no suit or action shall be brought thereon within 30 days or after the expiration of 12 months from the time said claim or demand is so presented. Unless the claim or demand is so presented within 90 days after the cause of action accrues, and unless suit is brought within 12 months thereafter, any action is barred.

(b) No action shall be instituted against the Town for damages to or compensation for real property taken or used by the Town for any public purpose, or for the ejectment of the Town therefrom, or to remove a cloud upon the title thereof, unless, within two years after such alleged use, the owner, his executor, administrator, guardian, or next friend, shall have given notice in writing to the Board of Aldermen of the claim, stating in the notice the date that the alleged use commenced, a description of property alleged to have been used, and the amount of the damage or compensation claimed.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, if a complainant suffers from physical or mental incapacity that renders it

impossible for him to give notice, his action shall not be barred if notice of claim is given by him or on his behalf within six months after the termination of his incapacity; provided, that minority shall not of itself constitute physical or mental incapacity. If the complainant is a minor, his action shall not be barred if notice of claim is given on his behalf within three years after the occurrence or the infliction of the injury complained of; or, if the minor suffers from physical or mental incapacity that renders it impossible for him to give notice, his action shall not be barred if notice of claim is given on his behalf within six months after termination of the incapacity, or within three years after the occurrence or the infliction of the injury complained of, whichever is the longer period. The Town may at any time request the appointment of a next friend to represent any person having a potential claim against the Town and known to be suffering from physical or mental incapacity."

Sec. 2. The purpose of this act is to revise the Charter of the Town of East Spencer and to consolidate herein certain acts concerning the property, affairs, and government of the Town. It is intended to continue without interruption those provisions of prior acts which are consolidated into this act, so that all rights and liabilities that have accrued are preserved and may be enforced.

Sec. 3. This act shall not be deemed to repeal, modify, or in any manner affect any of the following acts, portions of acts, or amendments thereto, whether or not such acts, portions of acts, or amendments are expressly set forth herein:

(a) Any acts concerning the property, affairs, or government of public schools in the Town of East Spencer.

(b) Any acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind.

Sec. 4. The following acts or portions of acts, having served the purposes for which they were enacted, or having been consolidated into this act are hereby repealed:

<u>Chapter</u>	<u>Laws</u>
45	Session Laws 1943
513	Session Laws 1949
1088	Session Laws 1949
852	Session Laws 1955
18	Session Laws 1959
891	Session Laws 1971

Sec. 5. No provision of this act is intended, nor shall be construed, to affect in any way any rights or interests (whether public or private):

(a) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act;

(b) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken (including the adoption of ordinances or resolutions) pursuant to or within the scope of any provision of law repealed by this act.

Sec. 6. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(a) The repeal herein of any act repealing such law, or

(b) Any provision of this act that disclaims an intention to repeal or effect enumerated or designated laws.

Sec. 7. (a) All existing ordinances and resolutions of the Town of East

Spencer, and all existing rules or regulations of departments or agencies of the Town of East Spencer, not inconsistent with the provisions of this act, shall continue in full force and effect until repealed, modified or amended.

(b) No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act by or against the Town of East Spencer or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

Sec. 8. Severability. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 9. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 10. This act shall be effective upon its ratification.

In the General Assembly read three times and ratified, this the 8th day of May, 1973.

H. B. 722

CHAPTER 375

AN ACT TO PROVIDE FOR VOLUNTARY ANNEXATION BY THE CITY OF ROCKY MOUNT OF AREAS NOT CONTIGUOUS TO THE MUNICIPAL BOUNDARIES OF THE CITY OF ROCKY MOUNT.

Whereas, Article 36 of Chapter 160 of the General Statutes of North Carolina contains no provision for the annexing of areas not contiguous to the municipal boundaries of the City of Rocky Mount; and

Whereas, it would be in the interest of the public health, safety and welfare of the inhabitants of said City and would permit a more orderly growth of the municipal boundaries of said City to allow the annexation of noncontiguous areas by petition of the property owners who desire that their property be annexed; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. That the owner or owners of any area within the boundaries of Nash County or Edgecombe County, or both counties, but not within the boundaries or extraterritorial jurisdiction of any other municipality, whose property is not contiguous to the municipal boundaries of the City of Rocky Mount, may, by petition directed to the City Council of the City of Rocky Mount, request that the property described in the petition be annexed and made a part of the City of Rocky Mount as hereinafter set out; provided any property so annexed must be located at the closest point not more than three miles from the City of Rocky Mount municipal limits wherein is located and situated the City Hall.

Sec. 2. That said petition shall be directed to the City Council of the City of Rocky Mount and shall contain:

- (1) The names of the owners of the real property for which a request to annex is made.
- (2) A description of the area to be annexed by metes and bounds.
- (3) The signatures of all property owners of the area requesting annexation.

Upon receipt of the petition, the City Council of the City of Rocky Mount

shall cause the clerk of the municipality to investigate the sufficiency thereof and to certify the results of his or her investigation.

Upon receipt of the certification and petition, the City Council shall fix dates for two public hearings on the question of annexation and shall cause notice of the public hearings to be published twice in a newspaper having general circulation in the municipality at least 10 days prior to the date of the first public hearing, and published in like manner preceding the second public hearing. The second public hearing shall be held at least 15 days after the first public hearing. At such public hearings, all residents of Nash or Edgecombe Counties opposing or favoring the annexation or alleging an error in the petition shall be given an opportunity to be heard. The City Council shall then determine whether the petition meets the requirements of this act.

Upon a further finding and determination by the City Council that:

- (1) The public health, safety and welfare of the inhabitants of the City of Rocky Mount, as well as those of the area, requesting such annexation, will best be served by such annexation, and
- (2) The City of Rocky Mount will be able to provide the same services to the annexed area in the same manner in which other areas within the municipal boundaries of said City are served,

the City Council of the City of Rocky Mount may adopt an ordinance annexing that area described in the petition. The City Council shall have authority to make the annexing ordinance effective immediately or on any specified date within six months from the date of passage of the ordinance. From and after the effective date of said ordinance the area and its citizens shall be subject to all debts, laws, ordinances and regulations in force in the City of Rocky Mount and shall be entitled to the same benefits and privileges of other parts of said City. The newly annexed area shall be subject to City taxes for the fiscal year following the effective date of annexation. If the effective date of annexation falls between January 1 and June 30, the City shall, for purposes of levying taxes for the fiscal year beginning July 1 following the date of annexation, obtain from the applicable county a record of property in the area being annexed which was listed for taxation as of said January 1. If the effective date of annexation falls between June 1 and June 30, and the effective date of the privilege license tax ordinance of the City is June 1, then businesses in the area to be annexed shall be liable for taxes imposed in such ordinance from and after the effective date of annexation.

Sec. 3. The City Council of the City of Rocky Mount may make annexation pursuant hereto contingent on such conditions as it may desire in order to insure that the area proposed to be annexed will not receive preferential treatment.

Sec. 4. The City Council, in its discretion, may charge in any noncontiguous annexed area water or sewer rates in excess of those charged within the municipal limits wherein is located the City Hall.

Sec. 5. Annexation proceedings hereunder shall be subject to referendum to the same extent and pursuant to the procedure provided in Part 1 of Article 36 of Chapter 160 of the General Statutes of North Carolina, except that such referendum shall be conducted by the Board of Elections then responsible for the conduct of other elections in the City of Rocky Mount.

Sec. 6. Whenever the limits of the City of Rocky Mount are enlarged in accordance with the provisions of this act, it shall be the duty of the mayor of

the city to cause an accurate map of such annexed area, together with a copy of the ordinance duly certified, and the official results of the election, if conducted, to be recorded in the office of the register of deeds of the county in which such area is situated and in the office of the Secretary of State.

Sec. 7. Any area annexed pursuant to this act shall cease to be noncontiguous for all intents and purposes when and in the event said area shall touch the municipal limits of the City of Rocky Mount pursuant to the extension of the boundaries of said City pursuant to Article 36, Chapter 160 of the General Statutes of North Carolina.

Sec. 8. Any area annexed pursuant to this act shall not be included in that area of the municipal boundaries used for determining any extraterritorial jurisdiction of the City of Rocky Mount and further shall not be considered within the municipal boundaries for the purposes of defining an area as contiguous to the City limits within the provisions of Part 3 of Article 36 of Chapter 160 of the General Statutes of North Carolina with reference to further annexation unless and until the area annexed pursuant hereto shall, by extension of the municipal boundaries pursuant to Article 36 of Chapter 160 of the General Statutes of North Carolina, touch and become a part of the municipal boundaries of the City of Rocky Mount wherein is located the City Hall.

Sec. 9. The total area of all noncontiguous portions of the City annexed pursuant to this act shall at no time exceed ten percent (10%) of the total area of the City of Rocky Mount wherein is located the City Hall.

Sec. 10. This act shall be supplemental and in addition to any other methods or procedure for annexation heretofore available or hereafter provided for the City of Rocky Mount.

Sec. 11. If any clause, sentence, paragraph, subsection, section or any part of this act shall for any reason be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such judgment shall not affect, impair or invalidate the remainder of this act but shall be confined in its operation to the part thereof directly involved in said judgment.

Sec. 12. All laws and clauses of laws in conflict with this act are repealed.

Sec. 13. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of May, 1973.

H. B. 751

CHAPTER 376

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF CAROLINA BEACH AND TO REPEAL PRIOR CHARTER ACTS.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Carolina Beach is hereby revised and consolidated to read as follows:

"THE CHARTER OF THE TOWN OF CAROLINA BEACH

"ARTICLE I

"INCORPORATION AND CORPORATE POWERS

"Sec. 1.1. *Incorporation and General Powers.* The Town of Carolina Beach shall continue to be a body politic and corporate under the name of the 'Town of Carolina Beach', and shall continue to be vested with all property and rights which now belong to the Town; shall have perpetual succession; may have a

common seal and alter and renew the same at pleasure; may sue and be sued; may contract, may acquire and hold all such property, real and personal, as may be devised, bequeathed, sold or in any manner conveyed or dedicated to it, or otherwise acquired by it, and may from time to time hold or invest, sell, or dispose of the same; and shall have and may exercise in conformity with this Charter all municipal powers, functions, rights, privileges, and immunities of every name and nature.

"Sec. 1.2. *Exercise of Powers.* All powers, functions, rights, privileges, and immunities of the Town, its officers, agencies, or employees, shall be carried into execution as provided by this Charter, or, if this Charter makes no provisions, as provided by ordinance or resolution of the Town Council and as provided by the general laws of North Carolina pertaining to cities and towns.

"Sec. 1.3. *Enumerated Powers not Exclusive.* The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive but, in addition to the powers enumerated herein or implied hereby, or those appropriate to the exercise of such powers, the Town of Carolina Beach shall have and may exercise all powers which are granted to cities and towns by the general laws of North Carolina and all powers which, under the Constitution of North Carolina, it would be competent for this Charter specifically to enumerate.

"ARTICLE II

"CORPORATE BOUNDARIES

"Sec. 2.1. *Corporate boundaries.* The corporate boundaries of the Town of Carolina Beach shall be and remain as they now are until altered in the manner provided by law. A description of the town boundaries shall be maintained as provided by G.S. 160A-22. Extensions of the corporate boundaries shall be governed by the General Statutes of North Carolina.

"ARTICLE III

"MAYOR AND TOWN COUNCIL

"Sec. 3.1. *Composition of Town Council.* The Town Council shall consist of five members to be elected by the qualified voters of the Town voting at large. Elections shall be nonpartisan and decided by plurality as provided in G.S. 163-292.

"Sec. 3.2. *Mayor and Mayor Pro Tempore.* The Mayor shall be elected by the Town Council from among its members. The Mayor shall be the official head of the Town government and shall preside at all meetings of the Town Council. The Mayor shall have the same power as other members of the Council to vote upon any question, or upon the appointment of officers, but he shall have no power to veto. The Mayor shall exercise such powers and perform such duties as are or may be conferred upon him by the general laws of North Carolina, by this Charter, and by the ordinances of the Town. The Council shall elect from among its members a Mayor Pro Tempore to serve at the pleasure of the Council. A Councilman serving as Mayor Pro Tempore shall be entitled to vote on all matters and shall be considered a Councilman for all purposes, including the determination of whether a quorum is present. During the absence of the Mayor, the Council may confer upon the Mayor Pro Tempore any of the powers and duties of the Mayor. If the Mayor should become physically or mentally incapable of performing his duties, the Council may proceed as provided in G.S. 160A-70.

"Sec. 3.3. *Terms; Qualifications; Vacancies.* (a) The members of the Town

Council shall serve for terms of four years, and the Councilman elected as Mayor shall serve as Mayor for a term of two years, beginning at the organizational meeting of the Council following regular town elections.

(b) Vacancies shall be filled as provided in G.S. 160A-63.

"Sec. 3.4. *Organization of Town Council; Oaths.* The organizational meeting of the Council after each election shall take place at the time and as provided in G.S. 160A-68. Each Councilman and the Mayor shall take, subscribe, and have entered in the minutes of the Council the following oath of office:

'I, _____, do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office as _____, so help me, God.'

"Sec. 3.5. *Meetings.* (a) The Town Council shall fix suitable times for its regular meetings, which shall be as often as once monthly.

(b) Special meetings may be called and held as provided in G.S. 160A-71. Voting procedures, quorum, and the keeping of minutes shall be done as provided in G.S. 160A-72, 160A-74, and 160A-75.

"Sec. 3.6. *Ordinances and resolutions.* Ordinances shall be adopted, amended, pleaded, proved, and repealed in accord with the general laws of North Carolina. The enacting clause of all ordinances shall be: 'Be it ordained by the Town Council of the Town of Carolina Beach.' Ordinances and resolutions shall take effect upon adoption unless otherwise provided therein.

"ARTICLE IV

"ELECTIONS

"Sec. 4.1. *Regular Municipal Elections.* Regular elections shall be held on the day provided by general law for municipal elections. In the regular election in 1973 and quadrennially thereafter there shall be elected three Councilmen to serve for terms of four years. In the regular election in 1975 and quadrennially thereafter there shall be elected two Councilmen to serve for terms of four years. All Town elections shall be conducted in accord with the general laws of North Carolina relating to municipal elections.

"ARTICLE V

"TOWN MANAGER

"Sec. 5.1. *Council-Manager form of government.* The Town of Carolina Beach shall operate under the council-manager form of government as provided in Chapter 160A, Article 7, Part 2, of the General Statutes of North Carolina.

"ARTICLE VI

"TOWN ATTORNEY

"Sec. 6.1. *Appointment; Qualifications; Term; Compensation.* The Town Council shall appoint a Town Attorney who shall be an attorney at law licensed to practice in North Carolina and who need not be a resident of the Town during his tenure. The Town Attorney shall serve at the pleasure of the Council and shall receive such compensation as the Council may determine.

"Sec. 6.2. *Duties of town attorney.* The Town Attorney shall prosecute and defend suits for and against the Town; advise the Mayor, Council, Manager, and other officials with respect to Town affairs; draw proposed ordinances when requested to do so; inspect and pass upon all agreements, contracts, franchises and other instruments with which the Town may be concerned; attend meetings

of the Council upon request; and perform such other duties as may be required of him by virtue of his position as Town Attorney.

“ARTICLE VII

“ADMINISTRATIVE OFFICERS AND EMPLOYEES

“Sec. 7.1. *Town Clerk.* The Council shall appoint a Town Clerk, who shall perform the duties prescribed in G.S. 160A-171.

“Sec. 7.2. *Town Accountant.* There shall be a finance officer who shall be appointed by the Council to perform duties in accordance with the Local Government Budget and Fiscal Control Act (Chapter 159 of the General Statutes of North Carolina, Article 3).

“ARTICLE VIII

“FINANCE

“Sec. 8.1. *In general.* The financial affairs of the Town of Carolina Beach shall be governed by the Local Government Budget and Fiscal Control Act and other applicable provisions of this Charter and the general laws of North Carolina.

“Sec. 8.2. *Advertising.* The Town Council is authorized to appropriate funds for the purpose of aiding in the development of the Town by means of advertising, and for such other purposes as will increase the population, taxable property, and industrial and business development of the Town.

“ARTICLE IX

“STREET AND SIDEWALK IMPROVEMENTS

“Sec. 9.1. *Authority.* In addition to any authority which is now or may hereafter be granted by general law to the Town for making street improvements, the Town Council is hereby authorized to make such improvements and to assess the total cost thereof against abutting property owners in accordance with the provisions of this Article, without the necessity of a petition of property owners.

“Sec. 9.2. *Sidewalk Improvements.* In addition to any authority which is now or may hereafter be granted by general law to the Town for making sidewalk improvements, the Town Council is hereby authorized to order to be made or to make sidewalk improvements or repairs according to standards and specifications of the Town, and to assess the total cost thereof against abutting property owners, without the necessity of a petition of property owners.

“Sec. 9.3. *Assessment Procedure.* In ordering street or sidewalk improvements or sidewalk repairs, without a petition and assessing the cost thereof under authority of this Article, the Town Council shall follow the procedure provided by the General Statutes relating to street and sidewalk assessments, except those provisions relating to the petition of property owners and the sufficiency thereof.

“Sec. 9.4. *Effect of Assessments.* The effect of the act of the levying assessments under authority of this Article shall for all purposes be the same as if the assessments were levied under authority of the General Statutes.

“ARTICLE X

“CLAIMS AGAINST THE TOWN

“Sec. 10.1. *Filing of Claims.* No action shall be instituted or maintained against the Town of Carolina Beach upon any claim or demand whatsoever, of any kind or character, until the claimant shall have first presented his or her claim or demand in writing to the Town Council, who shall have declined to pay

or settle the same as presented, or for ten days after such presentation neglected to enter or cause to be entered upon its minutes its determination in regard thereto; but nothing herein contained shall be construed to prevent any statute of limitation from commencing to run at the time such claim accrued or demand arose, or in any manner interfere with its running.

"Sec. 10.2. *Notice of Claims Before Suit.* No action for damages against the Town of Carolina Beach of any character whatsoever to either person or property shall be instituted against the Town; unless within sixty days after the happening or infliction of the injury complained of the complainant, his executors or administrators, shall have given notice to the Town Council of such injury, in writing, stating in such notice the date and place of happening or infliction of such injury, the manner of such infliction, the character of the injury, and the amount of damages claimed therefor; but this shall not prevent any time of limitation prescribed by law from commencing to run at the date of the happening or infliction of such injury, or in any manner interfere with its running."

Sec. 2. The purpose of this act is to revise the Charter of the Town of Carolina Beach and to consolidate herein certain acts concerning the property, affairs, and government of the Town. It is intended to continue without interruption those provisions of prior acts which are consolidated into this act, so that all rights and liabilities which have accrued are preserved and may be enforced.

Sec. 3. This act shall not be deemed to repeal, modify, nor in any manner to affect any of the following acts, portions of acts, or amendments thereto, whether or not such acts, portions of acts, or amendments are expressly set forth herein:

(a) Any acts relating to title to land built up and constructed as a result of any erosion control projects or work.

(b) Any acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind.

(c) Any acts relating to the collection of taxes of the Town of Carolina Beach.

Sec. 4. The following acts or portions of acts, having served the purposes for which enacted, or having been consolidated into this act, are hereby repealed:

CHAPTER

LAWS

117	Private Laws, 1925
195	Private Laws, 1927
78	Private Laws, 1929
188	Private Laws, 1933
21	Private Laws, 1935
238	Public-Local Laws, 1937
334	Public-Local Laws, 1939
156	Public-Local Laws, 1941
217	Public-Local Laws, 1941
614	Session Laws, 1943
660	Session Laws, 1945
975	Session Laws, 1945
866	Session Laws, 1947
1045	Session Laws, 1947
642	Session Laws, 1949

126	Session Laws, 1953
622	Session Laws, 1961
623	Session Laws, 1961
1219	Session Laws, 1963

Sec. 5. No provision of this act is intended, nor shall any be construed, to affect in any way any rights or interests (whether public or private):

(a) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act;

(b) Derived from, or which might be sustained or preserved in reliance upon, any action heretofore taken (including the adoption of ordinances or resolutions) pursuant to or within the scope of any provisions of law repealed by this act.

Sec. 6. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted shall be revived by:

(a) The repeal herein of any act repealing such law, or

(b) Any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

Sec. 7. (a) All existing ordinances and resolutions of the Town of Carolina Beach, and all existing rules or regulations of departments or agencies of the Town of Carolina Beach, not inconsistent with the provisions of this act, shall continue in full force and effect until repealed, modified or amended.

(b) No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act by or against the Town of Carolina Beach or any of its departments or agencies shall be abated or otherwise affected by the enactment of this act.

Sec. 8. *Severability.* If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 9. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 10. This act shall be effective upon its ratification.

In the General Assembly read three times and ratified, this the 8th day of May, 1973.

H. B. 759

CHAPTER 377

AN ACT TO EXTEND THE CORPORATE LIMITS OF THE TOWN OF ROBERSONVILLE.

The General Assembly of North Carolina enacts:

Section 1. The corporate limits of the Town of Robersonville shall be enlarged by the addition of the following area:

"Located East of and on the edge of the Town of Robersonville, and beginning at a concrete monument in the Town Limits of the Town of Robersonville located a distance of 210 feet North 3 degrees 45 minutes West of center of Third Street or S. R. No. 1159; running thence North 88 degrees 45 minutes East 543 feet to a concrete monument; running thence South 3 degrees 45 minutes East 210 feet to the center of Third Street or S. R. No. 1159; running thence with the center of Third Street or S. R. No. 1159 South 88 degrees 45

minutes West a distance of 543 feet to the Town Limits; running thence with the Town Limits North 3 degrees 45 minutes West 210 feet to the point of beginning, as shown on map duly recorded in Map Book 8, page 48, in the office of the Register of Deeds of Martin County, North Carolina, having been surveyed and drawn by David Terry under the supervision of L. S. Manning, R. L. S., dated February 6, 1973."

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective on May 1, 1973, or upon ratification whichever is later.

In the General Assembly read three times and ratified, this the 8th day of May, 1973.

H. B. 763 CHAPTER 378

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF FAISON AND TO REPEAL PRIOR CHARTER ACTS.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Faison is hereby revised and consolidated to read as follows:

"THE CHARTER OF THE TOWN OF FAISON

"ARTICLE I. INCORPORATION AND CORPORATE POWERS

"Section 1.1. *Incorporation and General Powers.* The Town of Faison shall continue to be a body politic and corporate under the name of the 'Town of Faison', and shall continue to be vested with all property and rights which now belong to the Town; shall have perpetual succession; may have a common seal and alter and renew the same at pleasure; may sue and be sued; may contract, may acquire and hold all such property, real and personal, as may be devised, bequeathed, sold or in any manner conveyed or dedicated to it, or otherwise acquired by it, and may from time to time hold or invest, sell, or dispose of the same; and shall have and may exercise in conformity with this Charter all municipal powers, functions, rights, privileges, and immunities of every name and nature.

"Sec. 1.2. *Exercise of Powers.* All powers, functions, rights, privileges, and immunities of the Town, its officers, agencies, or employees, shall be carried into execution as provided by this Charter, or, if this Charter makes no provision, as provided by ordinance or resolution of the Board of Commissioners and as provided by the general laws of North Carolina pertaining to municipal corporations.

"Sec. 1.3. *Enumerated Powers not Exclusive.* The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive but, in addition to the powers enumerated herein or implied hereby, or those appropriate to the exercise of such powers, the Town of Faison shall have and may exercise all powers which are granted to municipal corporations by the general laws of North Carolina and all powers which, under the Constitution of North Carolina, it would be competent for this Charter specifically to enumerate.

"ARTICLE II. CORPORATE BOUNDARIES

"Sec. 2.1. *Existing Corporate Boundaries.* (a) The corporate limits of the Town of Faison shall be those existing at the time of the ratification of this

Charter and as the same may be altered from time to time in accordance with law. The Board of Commissioners shall cause to be prepared a map to be designated 'Map of the Town of Faison Corporate Limits' showing the corporate limits as the same may exist as of the effective date of this Charter. The Board of Commissioners shall also cause to be prepared a written description of the corporate limits as shown on said map to be designated 'Description of Faison Corporate Limits'. Said map and description shall be retained permanently in the office of the Town Clerk as the official map and a description of the corporate limits of the Town. Immediately upon alteration of the corporate limits made pursuant to law from time to time, the Board of Commissioners shall cause to be made the appropriate changes and/or additions to said official map and description. Photographic types or other copies of said official map or description certified as by law provided for the certification of ordinances shall be admitted in evidence in all courts and shall have the same force and effect as would the official map or description.

(b) The Town Board shall require the redrawing of the official map and the rewriting of the official description as may from time to time be required. A redrawn map and a rewritten description shall supersede for all purposes the earlier maps and descriptions which are respectively replaced.

"Sec. 2.2. *Extension of Corporate Boundaries.* All extensions of the corporate boundaries shall be governed by the General Statutes of North Carolina.

"ARTICLE III. MAYOR AND BOARD OF COMMISSIONERS

"Sec. 3.1. *Composition of Board of Commissioners.* The Board of Commissioners shall consist of five members to be elected by the qualified voters of the Town voting at large in the manner provided in Article IV of this Charter.

"Sec. 3.2. *Mayor and Mayor Pro Tempore.* The Mayor shall be elected by and from the qualified voters of the Town voting at large in the manner provided in Article IV of this Charter. The Mayor shall be the official head of the Town government and shall preside at all meetings of the Board of Commissioners. When there is an equal division on a question, the Mayor shall resolve the deadlock by his vote, but he shall vote in no other case. The Mayor shall exercise such powers and perform such duties as are or may be conferred upon him by the general laws of North Carolina, by this Charter, and by the ordinances of the Town. The Board of Commissioners shall choose one of its number to act as Mayor Pro Tempore, and he shall perform the duties of the Mayor in the Mayor's absence or disability. The Mayor Pro Tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the Board.

"Sec. 3.3. *Terms, Qualifications, Vacancies.* The Mayor shall serve for a term of two years and members of the Board of Commissioners shall serve for terms of four years, beginning the day and hour of the organizational meeting following their election, as established by ordinance in accordance with this Charter; provided, they shall serve until their successors are elected and qualify.

(b) No person shall be eligible to be a candidate or be elected as Mayor or as a member of the Board of Commissioners or to serve in such capacity, unless he is a resident and a qualified voter of the Town.

(c) In the event a vacancy occurs in the office of Mayor or Commissioner, the

Board shall by majority vote appoint some qualified person to fill the same for the remainder of the unexpired term.

“Sec. 3.4. *Organization of Board of Aldermen; Oaths of Office.* The Board of Commissioners shall meet and organize for the transaction of business at the first regularly scheduled meeting of the Board following each biennial election. Before entering upon their offices, the Mayor and each Commissioner shall take, subscribe to and have entered upon the minutes of the Board the following oath of office:

‘I, _____, do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office as _____, so help me, God.’

“Sec. 3.5. *Meetings of Board.* The Board of Commissioners shall fix a suitable time and place for its regular meetings, which shall be held at least as often as once monthly. Special meetings may be held according to the procedures and requirements designated by the general laws of North Carolina pertaining to special meetings of City Councils.

“Sec. 3.6. *Quorum Votes.* (a) A majority of the members elected to the Board of Commissioners shall constitute a quorum for the conduct of business, but a less number may adjourn from time to time and compel the attendance of absent members in such manner as may be prescribed by ordinance.

(b) The affirmative vote of a majority of the members elected to the Board of Commissioners not excused from voting on the question in issue shall be necessary to adopt any ordinance, or any resolution or motion having the effect of an ordinance. All other matters to be voted upon shall be decided by a majority vote of those present and voting.

“Sec. 3.7. *Ordinances and Resolutions.* The adoption, amendment, repeal, pleading, or proving of ordinances shall be in accordance with the applicable provisions of the general laws of North Carolina not inconsistent with this Charter. The ayes and noes shall be taken upon all ordinances and resolutions and entered upon the minutes of the Board. The enacting clause of all ordinances shall be: ‘Be it ordained by the Board of Commissioners of the Town of Faison’. All ordinances and resolutions shall take effect upon adoption unless otherwise provided therein.

“ARTICLE IV. ELECTIONS

“Sec. 4.1. *Regular Municipal Elections.* Regular municipal elections shall be held biennially in odd-numbered years on the day set by general law for municipal elections. In the regular election in 1973, and biennially thereafter, there shall be elected a Mayor for a term of two years. In the regular election in 1973, there shall be elected three Commissioners for terms of four years and two Commissioners for terms of two years; in such election the two candidates for Commissioner who receive the largest numbers of votes shall be declared elected for terms of four years, and the two candidates for Commissioner who receive the next largest numbers of votes shall be declared elected for terms of two years. In the regular election in 1975, and quadrennially thereafter, there shall be elected two Commissioners to serve for terms of four years. In the regular election of 1977, and quadrennially thereafter, there shall be elected three Commissioners to serve for terms of four years. Any vacancy in the Office of Mayor or Commissioner shall be filled by the Board of Commissioners for the remainder of the unexpired term. Except as otherwise provided herein, regular

Town elections shall be conducted in accordance with the general laws relating to municipal elections.

"Sec. 4.2. *Regulation of Elections.* All Town elections shall be conducted in accordance with the general laws of North Carolina relating to municipal elections.

"ARTICLE V. TOWN ATTORNEY

"Sec. 5.1. *Appointment; Qualifications; Term; Compensation.* The Board of Commissioners may appoint a Town Attorney who shall be an attorney at law licensed to engage in the practice of law in North Carolina and who need not be a resident of the Town during his tenure. The Town Attorney shall serve at the pleasure of the Board and shall receive such compensation as the Board shall determine.

"Sec. 5.2. *Duties of Town Attorney.* It shall be the duty of the Town Attorney to prosecute and defend suits for and against the Town; to advise the Mayor, Board of Commissioners and other Town officials with respect to the affairs of the Town; to draft proposed ordinances when requested to do so; to inspect and pass upon all agreements, contracts, franchises and other instruments with which the Town may be concerned; to attend all meetings of the Board of Commissioners when required by the Board; and to perform such other duties as may be required of him by virtue of his position as Town Attorney.

"ARTICLE VI. ADMINISTRATIVE OFFICERS AND EMPLOYEES

"Sec. 6.1. *Town Clerk.* The Board of Commissioners shall appoint a Town Clerk to keep a journal of the proceedings of the Board of Commissioners and to maintain in a safe place all records and documents pertaining to the affairs of the Town, and to perform such other duties as may be required by law or as the Board of Aldermen may direct.

"Sec. 6.2. *Town Tax Collector.* The Board of Commissioners shall appoint a Tax Collector to collect all taxes, licenses, fees and other moneys belonging to the Town, subject to the provisions of this Charter and the ordinances of the Town, and he shall diligently comply with and enforce all the general laws of North Carolina relating to the collection, sale, and foreclosure of taxes by municipalities.

"Sec. 6.3. *Town Budget Officer.* The Board of Commissioners shall appoint a Town Budget Officer to perform the duties of the Budget Officer as required by the Local Government Budget and Fiscal Control Act.

"Sec. 6.4. *Town Finance Officer.* The Board of Commissioners shall appoint a Town Finance Officer to perform the duties of the Finance Officer as required by the Local Government Budget and Fiscal Control Act.

"Sec. 6.5. *Consolidation of Functions.* The Board of Commissioners may consolidate any two or more of the positions of Town Clerk, Town Tax Collector, Town Budget Officer, and Town Finance Officer, or may assign the functions of any one or more of these positions to the holder or holders of any other of these positions.

"ARTICLE VII. FINANCE

"Sec. 7.1. *Custody of Town Money.* All moneys received by the Town for or in connection with the business of the Town government shall be paid promptly into the Town depository or depositories. Such institutions shall be designated by the Town Board in accordance with the regulations and subject to the requirements as to security for deposits and interest thereon as may be established by the General Statutes of North Carolina. All interest on moneys

belonging to the Town shall accrue to the benefit of the Town. All moneys belonging to the Town shall be disbursed in accordance with the provisions of the Local Government Budget and Fiscal Control Act.

“Sec. 7.2. *Independent Audit.* As soon as possible after the close of each fiscal year, an independent audit shall be made of all books and accounts of the Town government by a certified public accountant or an accountant certified by the Local Government Commission. The audit shall be secured in accordance with the provisions of the Local Government Budget and Fiscal Control Act.

“ARTICLE VIII. POLICE

“Sec. 8.1. *Jurisdiction.* The jurisdiction of the police force is hereby extended to include all Town-owned property and facilities whether located within or outside the corporate limits, and all members of the police force shall have upon and within such property and facilities all rights, power and authority as they have within the corporate limits.

“ARTICLE IX. STREET AND SIDEWALK IMPROVEMENTS

“Sec. 9.1. *Street Improvements; Assessment of Costs.* In addition to any authority which is now or may hereafter be granted by general law to the Town for making street improvements the Board of Aldermen is hereby authorized to make street improvements and to assess the cost thereof against abutting property owners in accordance with the provisions of this Article.

“Sec. 9.2. *When Petition Unnecessary.* The Board of Commissioners may order street improvements and assess the cost thereof, exclusive of the costs incurred at street intersections, against the abutting property owners, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A (or any successor, recodification or revision thereto) of the North Carolina General Statutes, without the necessity of a petition, upon the finding by the Board as a fact:

(a) That the street improvement project does not exceed 3,000 linear feet, and

(b) That such street or part thereof is unsafe for vehicular traffic and it is in the public interest to make such improvement, or

(c) That it is in the public interest to connect two streets, or portions of a street already improved, or

(d) That it is in the public interest to widen a street, or part thereof, which is already improved; provided, that assessments for widening any street or portion of street without a petition shall be limited to the cost of widening and otherwise improving such street in accordance with the street classification and improvement standards established by the Town's thoroughfare or major street plan for the particular street or part thereof to be widened and improved under the authority granted by this Article.

“Sec. 9.3. *Street Improvement Defined.* For the purposes of this Article, the term ‘street improvement’ shall include grading, regrading, surfacing, resurfacing, widening, paving, repaving, the acquisition of right-of-way, and the construction or reconstruction of curbs, gutters and street drainage facilities.

“Sec. 9.4. *Sidewalks; Assessment of Costs.* In addition to any authority which is now or may hereafter be granted by general law to the Town for making sidewalk improvements, the Board of Commissioners is hereby authorized, without the necessity of a petition, to make or to order to be made sidewalk improvements or repairs according to standards and specifications of the Town, and to assess the total cost thereof against abutting property owners, according

to one or more of the assessment bases set forth in Article 10 of Chapter 160A (or any successor, recodification or revision thereto) of the North Carolina General Statutes; provided, however, that regardless of the assessment basis or bases employed, the Board of Commissioners may order the cost of sidewalk improvements made only on one side of a street to be assessed against property owners abutting both sides of such street.

"Sec. 9.5. *Assessment Procedure.* In ordering street and sidewalk improvements without a petition and assessing the cost thereof under authority of this Article, the Board of Aldermen shall comply with the procedure provided by Article 10, Chapter 160A (or any successor, recodification or revision thereto) of the General Statutes, except those provisions relating to the petition of property owners and the sufficiency thereof.

"Sec. 9.6. *Effect of Assessments.* The effect of the act of levying assessments under the authority of this Article shall for all purposes be the same as if the assessments were levied under authority of Article 10 of Chapter 160A (or any successor, recodification or revision thereto) of the General Statutes.

"Sec. 9.7. *Acceptance of Conveyance in Satisfaction of Assessments.* The Town Tax Collector or other official or employee of the Town having charge of the collection of special assessments, shall have the right, power and authority, by and with the approval of the Board of Aldermen first obtained and had, to receive and accept a fee simple conveyance to the Town of any lot or parcel of land in the Town, free and clear of other encumbrances, in full settlement and satisfaction of all street and sidewalk assessments outstanding and unpaid against such property. Such right, power, and authority, however, shall be limited to a conveyance of the whole of the lot or parcel of land against which the particular assessment or assessments involved were levied. No lot or tract of land may be divided and no such right, power, and authority exercised as to a part, only, of the property originally embraced in and covered by said assessment or assessments. In the case of such conveyance, it shall not be necessary that the street or sidewalk assessment or assessments against the property be foreclosed; but the Town, upon the receipt of any such conveyance, shall become and be the absolute fee simple owner of the property, as fully to all intents and purposes as if purchased in and through foreclosure proceedings for the enforcement of such street and sidewalk assessment or assessments.

ARTICLE X. CLAIMS AGAINST THE TOWN

"Sec. 10.1. *Presentation of Claims; Suit upon Claims.* (a) All claims or demands against the Town of Faison arising in tort or in contract shall be presented to the Board of Commissioners in writing, signed by the claimant, his attorney or agent, within 90 days after the claim or demand is due or the cause of action accrues, and no suit or action shall be brought thereon within 30 days or after the expiration of 12 months from the time said claim or demand is so presented. Unless the claim of demand is so presented within 90 days after the cause of action accrues, and unless suit is brought within 12 months thereafter, any action thereon is barred.

(b) No action shall be instituted against the Town for damages to or compensation for real property taken or used by the Town for any public purpose, or for the ejectment of the Town therefrom, or to remove a cloud upon the title thereof, unless, within two years after such alleged use, the owner, his executor, administrator, guardian, or next friend, shall have given notice in writing to the Board of Commissioners of the claim, stating in the notice the

date that the alleged use commenced, a description of property alleged to have been used, and the amount of the damage or compensation claimed.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, if a complainant suffers from physical or mental incapacity that renders it impossible for him to give notice, his action shall not be barred if notice of claim is given by him or on his behalf within six months after the termination of his incapacity; provided, that minority shall not of itself constitute physical or mental incapacity. If the complainant is a minor, his action shall not be barred if notice of claim is given on his behalf within three years after the occurrence or the infliction of the injury complained of; or, if the minor suffers from physical or mental incapacity that renders it impossible for him to give notice, his action shall not be barred if notice of claim is given on his behalf within six months after termination of the incapacity, or within three years after the occurrence or the infliction of the injury complained of, whichever is the longer period. The Town may at any time request the appointment of a next friend to represent any person having a potential claim against the Town and known to be suffering from physical or mental incapacity."

Sec. 2. The purpose of this act is to revise the Charter of the Town of Faison and to consolidate herein certain acts concerning the property, affairs, and government of the Town. It is intended to continue without interruption those provisions of prior acts which are consolidated into this act, so that all rights and liabilities that have accrued are preserved and may be enforced.

Sec. 3. This act shall not be deemed to repeal, modify or in any manner affect any of the following acts, portions of acts, or amendments thereto, whether or not such acts, portions of acts, or amendments are expressly set forth herein:

(a) Any acts concerning the property, affairs, or government of public schools in the Town of Faison.

(b) Any acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind.

Sec. 4. The following acts or portions of acts, having served the purposes for which they were enacted, or having been consolidated into this act are hereby repealed:

<u>Chapter</u>	<u>Laws</u>
125	Private Laws 1871-72
52	Private Laws 1891
324	Private Laws 1901
243	Public Laws 1907
235	Private Laws 1922
959	Session Laws 1945
7	Session Laws 1949
1130	Session Laws 1965

Sec. 5. No provision of this act is intended, nor shall be construed, to affect in any way any rights or interests (whether public or private):

(a) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provision of law repealed by this act;

(b) Derived from, or which might be sustained or preserved in reliance upon,

action heretofore taken (including the adoption of ordinances or resolutions) pursuant to or within the scope of any provisions of law repealed by this act.

Sec. 6. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revised by:

(a) The repeal herein of any act repealing such law, or

(b) Any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

Sec. 7. (a) All existing ordinances and resolutions of the Town of Faison and all existing rules or regulations of departments or agencies of the Town of Faison, not inconsistent with the provisions of this act, shall continue in full force and effect until repealed, modified or amended.

(b) No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act by or against the Town of Faison or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

Sec. 8. Severability. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 9. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 10. This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of May, 1973.

H. B. 767

CHAPTER 379

AN ACT TO AUTHORIZE THE ESTABLISHMENT OF LAW ENFORCEMENT DISTRICTS IN GUILFORD COUNTY IN ORDER TO PROVIDE LAW ENFORCEMENT SERVICES TO A GREATER EXTENT THAN THAT NOW PROVIDED FOR THE ENTIRE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. In order to provide law enforcement services in Guilford County which services are in addition to or to a greater extent than those financed, provided and maintained for the County outside the corporate limits of any town or municipality, law enforcement districts may be established in the same manner as is now provided for rural fire protection districts by Article 3A of Chapter 69 of the General Statutes, as the same may from time to time provide. Provided, however, upon the levy of such a tax, the Board of County Commissioners shall, to the extent of the taxes collected from such a district, provide additional law enforcement for the district as follows: (a) through the Guilford County Sheriff's Department and applying the taxes collected to the Sheriff's annual budget, or (b) transfer the taxes collected annually to the law enforcement district which shall provide additional law enforcement services

pursuant to a plan approved by the Guilford County Sheriff and the Guilford County Board of Commissioners.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of May, 1973.

H. B. 774

CHAPTER 380

AN ACT TO ANNEX A CERTAIN AREA TO THE TOWN OF NASHVILLE.

The General Assembly of North Carolina enacts:

Section 1. The corporate limits of the Town of Nashville are hereby enlarged and extended by annexing thereto the following described area:

BEGINNING at a point in the southern property line of US 64 Business, a corner for the existing Town Limits line; thence along the existing Town Limits line S. 4° 38' W. 608.96 feet to the northern right-of-way of the Seaboard Coastline Railroad right-of-way; thence along the Seaboard Coastline Railroad right-of-way the following courses and distances N. 82° 37' W. 1534.84 feet, N. 83° 18' W. 201.69 feet, N. 85° 36' W. 202.34 feet, N. 87° 26' W. 202.03 feet and N. 89° 09' W. 172.45 feet; thence, cornering, N. 6° 58' E. 511.09 feet to the southern right-of-way of US 64 Business; thence along the southern right-of-way of US 64 Business the following courses and distances, S. 86° 15' E. 631.82 feet, S. 85° 52' E. 169.22 feet, S. 86° 29' E. 199.93 feet and S. 86° 19' E. 1290.75 feet to the point of beginning, containing 28.55 acres, the above description is prepared from Map of "Annexed Area, Town of Nashville", dated October 20, 1971 by W. B. McIntyre, C. E.

Sec. 2. The area herein annexed shall be subject to the provisions of G.S. 160-452(e) from the date this act is ratified.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of May, 1973.

H. B. 776

CHAPTER 381

AN ACT TO AMEND SECTIONS 23 AND 25 OF CHAPTER 677, 1947 SESSION LAWS, AS AMENDED, RELATING TO ZONING BY THE CITY OF WINSTON-SALEM AND FORSYTH COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Section 23 of Chapter 677 of the Session Laws of 1947, as amended, is hereby amended as follows: by inserting between the first and second paragraphs thereof the eight following paragraphs:

"The Board of Aldermen of the City of Winston-Salem is hereby empowered, in accordance with the conditions and procedure specified in this act, by ordinance to regulate in any portion or portions of the City of Winston-Salem the uses of buildings and structures for trade, industry, residence, recreation, public activities or other purposes, and the uses of land for trade, industry, residence, recreation, agriculture, water supply conservation, soil conservation, forestry or other purposes.

For any or all these purposes, the City may divide its territorial jurisdiction

into districts of any number, shape, and area that may be deemed best suited to carry out the purposes of this section; and within those districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures, or land. All regulations shall be uniform for each class or kind of building throughout each district, but the regulations in one district may differ from those in other districts; provided, however, that the City may provide for the creation of special use districts in addition to general use districts.

It is the purpose and intent of this section to permit Winston-Salem to create general use districts in which a variety of uses are permitted, and to also create special use districts in which a single use is permitted upon the issuance by the Board of Aldermen of a special use permit prescribing the conditions under which such use will be permitted.

A person petitioning for rezoning of a tract of land, where special use districts are authorized by ordinance, may elect to request general use district zoning for said tract, or he may elect to request special use district zoning for said tract.

If he elects to petition for general use district zoning, he may not refer, either in his petition or at any hearings related to the petition, to the use intended for the property upon rezoning. The Board of Aldermen may not consider the intended use in determining whether to approve or disapprove the petition, but shall consider the full range of uses permitted within the requested general use district. If the petition is approved, the re-zoned property may be used for any of the uses permitted in the applicable general use district.

If the petitioner elects to petition for special use district zoning, the petition must specify the actual use intended for the property specified in the petition, and the intended use must be one permitted in the corresponding general use district. If the petition is for special use district zoning, the Board of Aldermen is to approve or disapprove the petition on the basis of the specific use requested. If the petition is approved, the Board of Aldermen shall issue a special use permit authorizing the requested use with such reasonable conditions as the Board of Aldermen determines to be desirable in promoting public health, safety and general welfare.

The conditions contained in a special use permit issued by the Board of Aldermen may include: location of the proposed use on the property; the number of dwelling units; the location and extent of support facilities such as parking lots, driveways, and access streets; location and extent of buffer areas and other special purpose areas; the timing of development; and such other matters as the petitioner may propose and the Board of Aldermen may find appropriate, but not to include architectural review or controls.

It is the further intent of this section to permit the creation of districts for specific uses and the imposition of reasonable conditions in order to secure the public health, safety and welfare, and insure that substantial justice be done."

Sec. 2. Section 25 of Chapter 677 of the Session Laws of 1947, as amended, is hereby amended by inserting the seven following paragraphs after the first paragraph therein:

"For any or all these purposes, the County may divide its territorial jurisdiction into districts of any number, shape, and area that may be deemed best suited to carry out the purposes of this section; and within those districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures, or land. All regulations shall be uniform for

each class or kind of building throughout each district, but the regulations in one district may differ from those in other districts; provided, however, that the County may provide for the creation of special use districts in addition to general use districts.

"It is the purpose and intent of this section to permit Forsyth County to create general use districts in which a variety of uses are permitted, and to also create special use districts in which a single use is permitted upon the issuance by the Board of County Commissioners of a special use permit prescribing the conditions under which such use will be permitted.

A person petitioning for rezoning of a tract of land, where special use districts are authorized by ordinance, may elect to request general use district zoning for said tract, or he may elect to request special use district zoning for said tract.

If he elects to petition for general use district zoning, he may not refer, either in his petition or at any hearings related to the petition, to the use intended for the property upon rezoning. The Board of County Commissioners may not consider the intended use in determining whether to approve or disapprove the petition, but shall consider the full range of uses permitted within the requested general use district. If the petition is approved, the re-zoned property may be used for any of the uses permitted in the applicable general use district.

If the petitioner elects to petition for special use district zoning, the petition must specify the actual use intended for the property specified in the petition, and the intended use must be one permitted in the corresponding general use district. If the petition is for special use district zoning, the Board of County Commissioners is to approve or disapprove the petition on the basis of the specific use requested. If the petition is approved, the Board shall issue a special use permit authorizing the requested use with such reasonable conditions as the Board determines to be desirable in promoting public health, safety and general welfare.

The conditions contained in a special use permit issued by the Board may include: location of the proposed use on the property; the number of dwelling units; the location and extent of support facilities such as parking lots, driveways, and access streets; location and extent of buffer areas and other special purpose areas; the timing of development; and such other matters as the petitioner may propose and the Board may find appropriate, but not to include architectural review or controls.

It is the further intent of this section to permit the creation of districts for specific uses and the imposition of reasonable conditions in order to secure the public health, safety and welfare, and insure that substantial justice be done."

Sec. 3. This act shall apply only to the City of Winston-Salem and Forsyth County.

Sec. 4. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 5. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 8th day of May, 1973.

H. B. 781

CHAPTER 382

AN ACT TO AUTHORIZE AN INCREASE IN THE NUMBER OF COMMISSIONERS OF THE TOWN OF SCOTLAND NECK.

The General Assembly of North Carolina enacts:

Section 1. The Board of Commissioners of the Town of Scotland Neck is hereby authorized to adopt by ordinance an amendment to the Town Charter rewriting Section 5 of Chapter 342 of the Private Laws of 1901, as amended by Chapter 667 of the Session Laws of 1951, and by Chapter 267 of the Session Laws of 1957, to read as follows:

"Sec. 5. At each regular election there shall be elected a Mayor to serve for a term of two years. The terms of Commissioners shall be four years. At the regular election in 1973 and quadrennially thereafter, two Commissioners shall be elected. At the regular election in 1975 and quadrennially thereafter, three Commissioners shall be elected."

Sec. 2. The Charter amendment specified in Section 1 of this act shall be effective upon adoption thereof by ordinance of the Board of Commissioners of the Town of Scotland Neck. Should the Board of Commissioners adopt such an ordinance, it shall appoint some qualified person to serve as Commissioner until his successor is elected in the regular election in 1975.

Sec. 3. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 4. This act shall be effective upon its ratification.

In the General Assembly read three times and ratified, this the 8th day of May, 1973.

H. B. 794

CHAPTER 383

AN ACT TO ANNEX CERTAIN LAND TO THE TOWN OF NORTH WILKESBORO.

The General Assembly of North Carolina enacts:

Section 1. That area of land described below is hereby annexed to the Town of North Wilkesboro:

"BEGINNING at an iron stake located in the edge of the Northern right of way of U.S. Highway 421A, the Southeast corner of Lot No. 4 of West End Development and running away from said highway North 14° 40' West 361.58 feet to an iron stake, the Northeast corner of Lot No. 4; thence North 69° 35' East 120 feet to an iron stake, the Northwest corner of Lot No. 11; thence South 13° 05' East 362.33 feet to an iron stake located in the edge of the Northern right of way of U.S. Highway 421A, the Southwest corner of Lot No. 11; thence with the Northern edge of the right of way of said Highway South 70° 20' West 60 feet to an iron stake; thence South 68° 12' West 60 feet to an iron stake, the point of beginning, and being Lots 5, 6, 7, 8, 9 and 10 in Block A of West End Development as shown and described on a plat thereof by Richard C. Current, R.L.S., said plat being recorded in Map Book 5, Page 123, Wilkes County Registry."

Sec. 2. From and after the ratification of this act, the citizens and

property in the area annexed shall be subject to the provisions of G.S. 160-452(e).

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of May, 1973.

H. B. 856 CHAPTER 384

AN ACT TO AMEND THE CHARTER OF THE TOWN OF MARSHALL TO REGULATE THE PRESENTATION OF CLAIMS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 165, Private Laws of 1905, is amended by adding a new section, to be designated Section 49, to read as follows:

"Sec. 49. All claims or demands against the Town of Marshall arising in tort shall be presented to the governing body of the Town or the Mayor, in writing, signed by the claimant, his attorney or agent, within 60 days after the claim or demand is due or the cause of action arose. No suit or action shall be brought within 10 days or after the expiration of 12 months from the time the claim is presented. If the claim is not presented within 60 days after the claim or demand is due or the cause of action arose, and if suit is not instituted within 12 months from the time the claim is presented, the claim and action thereon shall be barred."

Sec. 2. This act shall apply to claims and actions arising in tort after the ratification of this act.

Sec. 3. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of May, 1973.

H. B. 857 CHAPTER 385

AN ACT TO AMEND THE CHARTER OF THE TOWN OF HOT SPRINGS TO REGULATE THE PRESENTATION OF CLAIMS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 210, Private Laws of 1929, is amended by adding a new section to be designated Section 21 to read as follows:

"Sec. 21. All claims or demands against the Town of Hot Springs arising in tort shall be presented to the governing body of the Town or the Mayor, in writing, signed by the claimant, his attorney or agent, within 60 days after the claim or demand is due or the cause of action arose. No suit or action shall be brought within 10 days or after the expiration of 12 months from the time the claim is presented. If the claim is not presented within 60 days after the claim or demand is due or the cause of action arose, and if suit is not instituted within 12 months from the time the claim is presented, the claim and action thereon shall be barred."

Sec. 2. This act shall apply to claims and actions arising in tort after the ratification of this act.

Sec. 3. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of May, 1973.

H. B. 859

CHAPTER 386

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF ZEBULON AND TO REPEAL PRIOR CHARTER ACTS.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Zebulon is hereby revised and consolidated to read as follows:

"THE CHARTER OF THE TOWN OF ZEBULON

"ARTICLE I. INCORPORATION AND CORPORATE POWERS

"Section 1.1. *Incorporation and General Powers.* The inhabitants of the Town of Zebulon, within the corporate limits as now or hereafter established shall be, and continue as they have heretofore been, a municipal body politic and corporate, under the name of the Town of Zebulon. The Town of Zebulon shall have all the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the Constitution, by the general laws of the State of North Carolina and by this Charter. The enumeration of particular powers by the Charter shall not be deemed to be exclusive, and it is intended that the Town of Zebulon shall have and exercise all powers which, under the Constitution and the laws of the State of North Carolina, it would be competent for this Charter specifically to enumerate.

"ARTICLE II. CORPORATE BOUNDARIES

"Sec. 2.1. *Existing Corporate Boundaries.* The corporate limits of the Town shall be those existing at the time of the ratification of this Charter and as the same may be altered from time to time in accordance with law.

"Sec. 2.2. *Extension of Corporate Boundaries.* All extensions of the corporate boundaries shall be governed by the General Statutes of North Carolina.

"ARTICLE III. MAYOR AND BOARD OF COMMISSIONERS

"Sec. 3.1. *Composition of Board of Commissioners.* The Board of Commissioners shall consist of five members to be elected by the qualified voters of the Town voting at large in the manner provided in Article IV.

"Sec. 3.2. *Mayor and Mayor Pro Tempore.* The Mayor shall be elected by and from the qualified voters of the Town voting at large in the manner provided in Article IV.

"Sec. 3.3. *Terms; Qualifications; Vacancies.* The Mayor and members of the Board of Commissioners shall serve for terms of two years, beginning the day and hour of the organizational meeting following their election; provided, they shall serve until their successors are elected and qualify.

"ARTICLE IV. ELECTION PROCEDURE

"Sec. 4.1. *Regular Municipal Elections.* Elections shall be held biennially in odd-numbered years on the day set by general law for municipal elections.

"Sec. 4.2. *Elections to Be by Nonpartisan Plurality Method.* Elections for Mayor and Board of Commissioners shall be by the nonpartisan plurality method set out in North Carolina General Statute 163-292. All elections and referendums of the Town of Zebulon shall be held and conducted as provided by the applicable General Statutes of North Carolina.

"ARTICLE V. TOWN MANAGER

"Sec. 5.1. *Appointment; Compensation.* The Board of Commissioners shall appoint an officer whose title shall be Town Manager and who shall be the head of the administrative branch of the city government. The Town Manager shall be chosen by the Board of Commissioners solely on the basis of his executive and administrative qualifications with special reference to actual experience in, or knowledge of, accepted practice in respect to the duties of his office as hereinafter prescribed. The Town Manager shall serve at the pleasure of the Board of Commissioners and shall receive such salary as the Board of Commissioners shall fix. In case of absence or disability of the Town Manager, the Commissioners may designate a qualified administrative officer of the Town to perform the duties of the Manager during such absence or disability.

"ARTICLE VI. ATTORNEY

"Sec. 6.1. *Appointment; Qualifications; Terms; Compensation.* The Board of Commissioners shall appoint a Town attorney who shall be an attorney at law licensed to engage in the practice of law in North Carolina and who need not be a resident of the Town during his tenure.

"ARTICLE VII. ADMINISTRATIVE OFFICERS AND EMPLOYEES

"Sec. 7.1. *Town Clerk.* The Board of Commissioners shall appoint a Town Clerk to keep a journal of the proceedings of the Board of Commissioners and maintain in a safe place all records and documents pertaining to the affairs of the Town, and to perform such other duties as may be required by law or as the Town Manager may direct. He shall receive such compensation and be required to give such bond as the Board may from time to time determine.

"Sec. 7.2. *Town Finance Officer.* The Board of Commissioners may appoint a Town Finance Officer, whose powers and duties shall be as defined in 'The Local Government Budget and Fiscal Control Act' of the general laws of North Carolina.

"Sec. 7.3. *Tax Collector.* The Board of Commissioners may appoint a Tax Collector whose powers and duties shall be as defined in Chapter 105 of the North Carolina General Statutes.

"Sec. 7.4. *Consolidation of Functions.* The Board of Commissioners may consolidate any two or more of the positions of Town Manager, Town Clerk, Town Finance Officer, Tax Collector, and any other appointive position, or may assign the functions of any one or more of these positions to the holder or holders of any other of these positions.

"Sec. 7.5. *Chief of Police.* The Chief of Police shall have supervision and control of the police force and shall enforce discipline therein.

"Sec. 7.6. *Fire Chief.* The Chief of the Fire Department shall be responsible for the efficiency and discipline of the fire department.

"Sec. 7.7. *Town Departments.* The Board of Commissioners may establish such departments to serve the Town as they deem appropriate.

**"ARTICLE VIII. LOCAL IMPROVEMENTS AND ASSESSMENTS
FOR LOCAL IMPROVEMENTS**

"Sec. 8.1. *Authority to Make Local Improvements.* The Board of Commissioners shall have authority to make the local improvements described in this Charter, as in its discretion it may deem appropriate, with or without any petition so to do and to assess the total cost against the abutting property.

The procedure set forth in this Article shall not be exclusive, but shall be in addition to any other procedure provided by law.

“Sec. 8.2. *Separate Proceedings not Required.* One or more local improvements may be made in a single proceeding, and assessments for one or more local improvements may be combined.

“Sec. 8.3. *Definitions.* Certain words and phrases will be used with the following meanings with reference to local improvements, unless some other meaning is plainly intended.

(a) A ‘street’ is the entire width between property or right-of-way lines of every way or place, of whatever nature, when any part thereof is dedicated or open to the use of the public as a matter of right for the purpose of vehicular or pedestrian traffic, and whether such portion devoted to traffic be divided by any railroad, or other utility right-of-way, parkway or in any other manner.

(b) A ‘sidewalk’ is the part of a street which is used or to be used for pedestrian traffic.

(c) A ‘storm sewer’ is a conduit above or below ground for the passage of storm water and may include a pumping station and outlet where deemed necessary and may also include the building of culverts over or the enclosing of streams where needed to carry off storm water.

(d) A ‘sanitary sewer’ is a conduit, preferably underground, for the passage of sewage and may include a pumping station and outlet.

(e) A ‘water main’ is a pipe for the passage of Town water for public hydrants and private and public use and consumption.

(f) A ‘lateral’ is a pipe connecting a storm or sanitary sewer or water main with the line of adjacent property or the curb line, being either a sewer lateral or water lateral, but does not include a building connection, that is, a pipe extending from a lateral at the property line or curb line to the house or plumbing fixture to be served.

(g) A ‘roadway’ is the part of a street which is used or to be used for vehicular traffic.

(h) The word ‘sewer’ includes both sanitary and storm sewers unless a contrary intention is shown.

“Sec. 8.4. *Improvements Described.* The Board of Commissioners shall have authority to make the following local improvements:

(a) Roadway paving improvements, which include the grading, regrading, paving, repaving and widening of roadways, or the improvement thereof with any treatment designed to provide an improved wearing surface with necessary drainage, sewer inlets, manholes and catch basins and the construction or reconstruction of retaining walls made necessary by any change of grade incident to such improvement, and, in any case where the improvement is made, if the Board so directs, it may include the construction or reconstruction of curbs, gutters, drains and sidewalks.

(b) Water main improvements, which include the laying or construction of water mains, the relaying where necessary of parts of paved roadways and sidewalks torn up or damaged by the laying or construction of such mains, and, in any case where the improvement is made and the Board so directs, the laying of water laterals.

(c) Sanitary sewer improvements, which include the laying or construction of sanitary sewers, the relaying where necessary of parts of paved roadways and sidewalks torn up or damaged by the laying or construction of such sewers, and,

in any case where the improvement is made and the Board so directs, the laying of sanitary sewer laterals.

(d) Storm sewer improvements, which include the laying or construction of storm sewers, the relaying where necessary of parts of paved roadways and sidewalks torn up or damaged by the laying or construction of such sewers, and, in any case where the improvement is made and the Board so directs, the laying of storm sewer laterals.

(e) Sidewalk improvements, which include the grading, regrading, construction, reconstruction and repair of paved or other improved sidewalks, the construction or reconstruction of retaining walls made necessary by the incident to such improvements, and in any case where the improvement is made, if the Board so directs, it may include the construction or reconstruction of curbs, gutters and drains, and the construction or reconstruction of all such portions of driveways as in the judgment of the Board ought to be laid in the street area.

(f) Grass plot improvements, which include the grading and planting of grass plots in the street.

"Sec. 8.5. Water and Sewer Mains between Streets; Assessment; Town Bear Costs of Right-of-Way. Whenever the Board finds it in the public interest, and it will be more economical and the interest of the property owners will best be served by construction of either water or sanitary sewer mains, or both, between streets rather than in a street, they may be constructed between streets. The cost of the construction of such water or sewer mains and laterals shall be assessed according to the street frontage in the same manner and to the same extent that it would be assessed if the improvements were constructed in a street.

"Sec. 8.6. Inclusion of More than One Improvement in Single Proceeding. (a) Uniformity of cost and kind. Any proceeding may include one or more local improvements on one or more streets, but all improvements included in one procedure shall be practically uniform in cost and kind. A proceeding may include improvements on only one side of a street.

(b) *Assessment of Costs, Manner and Method.* The proceeding may provide for making any one or more local improvements in or on a street or streets and for the assessment of the cost thereof, except the Town's portion, wholly against the property abutting one side of such street or streets or otherwise against such abutting property as may be designated in the petition, if one, and if not in the resolution ordering the proceeding, in any of the following cases: (1) In any case, where there is a park land or unimproved land abutting one side or a part of one side of a street; or (2) where the land abutting one side or a part of one side of a street is of such nature or is devoted to such purpose that a special assessment against it cannot be made, or, if made would probably exceed the value of the land assessed; or (3) where the owners of all the property to be assessed agree thereto.

"Sec. 8.7. Resolution Ordering Improvements; Publications. (a) After the Board determines to make the improvements proposed, it shall adopt a resolution which shall contain:

- (1) If the improvements are to be made by petition, a finding by the Board as to the sufficiency of the petition, which finding shall be final and conclusive.
- (2) If the improvements are to be made without petition, a finding by the

Board of such facts requiring authorization of improvements without petition.

- (3) A general description of the improvements to be made, and the designation of the street or streets or parts thereof where the work is to be done.
- (4) If the improvement directed to be made includes the construction of water mains or sewers, and in order to provide the mains or sewers in the street or streets to be improved, it is necessary to extend them beyond the limits of the street or streets, the resolution shall contain a provision for the necessary extension of such mains or sewers, and a further provision that the cost of such extension shall be assessed against the lots or parcels of land abutting the street or streets in which such extensions are made, but that assessments shall not be made until such time as the Board shall thereafter determine by appropriate resolution.
- (5) If the improvement directed to be made is the paving of a roadway or part thereof, or the construction of sidewalks, the resolution may, but need not, contain a direction that the owner of each lot abutting the part of the street to be improved connect his lot by means of laterals with water mains, gas or sewer pipes, or any one or more thereof, located in the street adjacent to his premises in accordance with the requirements governing the laying of laterals, and that unless the owners cause laterals to be laid on or before a date specified in the resolution, the date to be not less than 30 days after the date of the resolution, the Board will cause the same to be laid.
- (6) A designation of the proportion of the cost of the improvements to be assessed against abutting property, and of the number of equal annual installments in which assessments may be paid.

(b) *Publication and Posting of Notice.* The resolution after its passage shall be published at least once in some newspaper of general circulation in the Town which is qualified to carry legal notices, or if there be no such newspaper, the resolution shall be posted in three public places in the Town for at least five days, except that in any case where the Board directed that the notice should be served or mailed instead of being published, the resolution ordering the improvements need not be either published or posted.

“Sec. 8.8. *Details of Construction; Contracts for Construction.* The Board shall have power to determine the character and type of construction and of material to be used and to determine any other details of plan or construction necessary to be determined in making any local improvements and to determine whether any work to be done by the Town shall be done by contract or by the Town. The Board shall have power, also, unless otherwise limited, to determine the number of water, sewer and gas laterals that shall be laid to any lot on any street to be improved. If the work or any part thereof is to be done by contract, the Board may let all of the work in one contract, or it may divide it into several contracts and may let contracts separately.

“Sec. 8.9. *Determination as to Cost of Improvements.* Upon completion of the improvements, the Board shall ascertain the total cost. In addition to other items of cost there may be included therein the cost of all necessary legal services, the amount of interest paid during construction, the amount of damages paid or to be paid for injury to property by reason of any change of grade or drainage, including court costs and other expenses incidental to the

determination of damages, and the cost of retaining walls, sidewalks or fences built or altered in lieu of cash payment for property damage, including the cost of moving or altering any building. The determination of the Board as to the total cost of any improvement shall be conclusive.

“Sec. 8.10. *Corner Lot Exemptions.* The Board of Commissioners shall have authority to establish schedules of exemptions from assessments for corner lots when a project is undertaken along both sides of such lots. The schedules of exemptions shall be based on categories of land use (residential, commercial, industrial, or agricultural) and shall be uniform for each category. The schedule of exemptions may not provide exemption of more than seventy-five percent (75%) of the frontage of any side of a corner lot, or 150 feet, whichever is greater.

“Sec. 8.11. *Preliminary Assessment Roll, Contents, Publication, Posting, Serving or Mailing.* The Board shall cause to be prepared a preliminary assessment roll, on which shall be entered a brief description of each lot or parcel of land assessed, the amount assessed against each lot, the name or names of the owner or owners of each lot as far as the same can be ascertained; provided that a map of the improvements on which is shown the frontage and location of each affected lot, together with the amount assessed against each lot and the name or names of the owner or owners thereof as far as the same can be ascertained, shall be a sufficient assessment roll. If the resolution directed the making of more than one improvement, a single preliminary assessment roll for all the improvements authorized by such resolution shall be sufficient, but the cost of each improvement to each lot affected shall be shown separately. After the preliminary assessment roll has been completed, it shall be filed in the office of the Town Clerk, and there shall be published in some newspaper of general circulation in the Town which is qualified to carry legal notices, or if there be no such newspaper, the Town Clerk shall cause to be posted in three public places in the Town a notice of the completion of the assessment roll, setting forth a description in general terms of the improvements, and stating the time fixed for the meeting of the Board for the hearing of objections to the special assessments, such meeting to be not earlier than 10 days after the first publication or from the date of posting of said notice. Any number of assessment rolls may be included in one notice. In any case where the preliminary notice was served or mailed instead of being published, this notice need not be published or posted but may be served or mailed. The serving or mailing of notices shall be completed not less than five days prior to the date fixed for the hearing of the assessment roll, and the return of the person serving or mailing the same shall, in the absence of fraud, be conclusive that the same were served or mailed.

“Sec. 8.12. *Hearing; Revision; Confirmation; Lien.* At the time appointed for that purpose or at some other time to which it may adjourn, the Board shall hear objections to the preliminary assessment roll of all persons interested who may appear and offer proof in relation thereto. Then or thereafter, the Board shall either annul or sustain or modify in whole or in part the assessment, either by confirming the preliminary assessment against any or all lots or parcels described thereon, or by cancelling, increasing or reducing the same. If any property is omitted from the preliminary roll, the Board may place it on the roll and levy the proper assessment. The Board may thereupon confirm the assessment roll. Whenever the governing body shall confirm assessments for local improvements, the Town Clerk shall enter on the Board minutes and on

the assessment roll the date, hour and minute of confirmation, and from the time of confirmation the assessment shall be a lien on the property assessed of the same nature and to the same extent as county and city taxes and shall be superior to all other liens and encumbrances. After the assessment roll is confirmed, a copy of the same shall be delivered to the Town Tax Collector.

"Sec. 8.13. *Appeal to Superior Court.* If the owner of, or any person interested in, any lot or parcel of land against which an assessment is made is dissatisfied with the amount of the assessment, he may, within 10 days after the confirmation of the assessment roll, give written notice to the Board that he takes an appeal to the Superior Court of Wake County, in which cases he shall within 20 days after the confirmation of the assessment roll serve on the Mayor or Town Clerk a statement of facts upon which he bases his appeal. The appeal shall be tried as other actions at law. The remedy herein provided for any person dissatisfied with the amount of the assessment against any property of which he is the owner or in which he is interested shall be exclusive.

"Sec. 8.14. *Error in Assessment; Power to Correct; Procedure.* If it shall appear after confirmation of any assessment roll that an error has been made, the Town Clerk shall cause to be published one time in some newspaper of general circulation in the Town, or if there be no such newspaper, the Town Clerk shall cause to be posted at three public places in the Town a notice referring to the assessment roll in which the error was made, naming the owner or owners of the lot or parcel of land affected by the error if the same can be ascertained, and naming the time and place fixed for a hearing by the Board for the correction of the error, such meeting not to be earlier than 10 days from the publication or from the date of the posting of the notice. At the time fixed in the notice or at some subsequent time to which the Board may adjourn, the Board, after giving the owner or owners of the property affected and other persons interested therein an opportunity to be heard, may proceed to correct the error, and the assessment then made shall have the same force and effect as if it had originally been properly made. No notice and hearing shall be necessary if the correction does not increase an assessment against any property not owned by the Town, or if all of the property owners affected by the correction waive notice in writing.

"Sec. 8.15. *Reassessment.* The Board shall have the power, when in its judgment there is any irregularity, omission, error or lack of jurisdiction in any of the proceedings relating thereto, to set aside the whole of the local assessment made by it and thereupon to make a reassessment. In such case there shall be included, as a part of the cost of the improvements involved, all interest paid or accrued on notes or certificates of indebtedness or bonds issued by the Town to pay the expenses of such improvement. The proceeding shall, as far as practicable, be in all respects as in the case of original assessments, and the reassessment shall have the same force as if it had originally been properly made.

"Sec. 8.16. *Publication of Notice of Confirmation of Assessment Roll.* After the expiration of 20 days from the confirmation of the assessment roll, the Town Clerk shall cause to be published one time in some newspaper of general circulation in the Town which is qualified to carry legal notices, or if there be no such newspaper, shall cause to be posted at three public places in the Town a notice of confirmation of the assessment roll, and that assessments may be paid at any time before the expiration of 30 days from the date of publication or

posting of the notice without interest from the date of confirmation of the assessment roll, but that if such assessment is not paid in full within said time, all installments thereof shall bear interest until paid at the rate fixed in the assessment resolution, but not more than eight percent (8%) per annum from the date of confirmation of the assessment roll.

"Sec. 8.17. *Payment of Assessments in Cash or by Installments.* The property owner assessed shall have the option of paying for improvements in cash or in not less than two or more than five equal annual installments as may have been determined in the resolution ordering the improvements. If paid in installments, installments shall bear interest at the rate fixed in the assessment resolution, but not more than eight percent (8%) per annum from the date of confirmation of the assessment roll. If any assessment is not paid in cash, the first installment with interest shall become due and payable 30 days after the publication or posting of the notice of confirmation, and one subsequent installment and interest shall be due and payable on the same day of the same month in each successive year until the assessment is paid in full; provided, however, that if the Board shall so direct installments shall become due and payable on the same date when property taxes of the Town are due and payable. If any installment with interest is not paid when due, it shall be subject to the same penalties as are now prescribed by law for unpaid taxes, in addition to the interest herein provided for. The whole assessment may be paid at any time by the payment of the full amount due with accrued interest.

"Sec. 8.18. *Procedure to Enforce Payment; Mandamus Against Railroads and State Agencies; Foreclosure Against Individuals.* Upon the failure of any property owner to pay any installment when due and payable, all of the installments remaining unpaid shall immediately become due and payable, and property and rights-of-way may be sold by the Town under the same rules, regulations, rights of redemption and savings as are now prescribed by law for the sale of land for unpaid taxes. Unpaid assessments, interest and penalties owed by railroad companies and the State of North Carolina, its agencies or subdivisions, may be collected by writs of mandamus issued by the Superior Court of Wake County. Collection of assessments with interest and penalties may also be made by the Town by proceedings to foreclose the lien of assessments as a lien for mortgages is or may be foreclosed under the laws of the State, and it shall be lawful to join in any bill for foreclosure any one or more lots or parcels of land, by whomsoever owned, if assessed for an improvement ordered by the same resolution, after default in the payment of any installment. The payment of said installment, together with interest and penalties due thereon and any advertising and legal costs already incurred, before the lot or parcel of land against which the same is a lien is sold or said lien is foreclosed, shall bar the right of the Town to sell land or to foreclose the lien by reason of default.

"Sec. 8.19. *Assessment of Cost of Water Main and Sewer Extensions.* If the resolution ordering the making of any improvement or improvements included a provision for any necessary extension of a water main or sewer or sewers beyond the limit of a street or streets, at such time after the completion of said extension or extensions as in the judgment of the Board circumstances justify the assessment of the cost thereof, the Board shall cause a preliminary assessment to be made, and the procedure thereafter to be followed with respect

to such assessment and the force and effect thereof shall be as already prescribed for other assessments.

“Sec. 8.20. *Apportionment of Assessments.* In any case where one or more special assessments have been made, and property has been or is about to be subdivided, and it is desirable that the assessments be apportioned among the subdivisions of such property, the Board may, upon application by the owner or owners, apportion the assessments among the subdivisions. Thereafter, each subdivision shall be relieved of any part of the original assessment except the part apportioned to the subdivision, and the part of the original assessment apportioned to any subdivision shall be of the same force and effect as the original assessment.

“Sec. 8.21. *Change of Ownership.* No change of ownership of any property or interests therein after the passage of a resolution ordering the making of a local improvement shall affect subsequent proceedings, and the improvement may be completed and assessments made therefor as if there had been no change in ownership.

“Sec. 8.22. *Lands Subject to Assessment.* No lands in the Town including railroad company lands and rights-of-way and property of the State of North Carolina, its agencies or subdivisions, shall be exempt from special assessments except lands belonging to the United States which are exempt under the provisions of Federal Statutes, and the council and the officers, trustees or boards of all incorporated or unincorporated bodies in whom is vested the right to hold and dispose of real property shall have the right by authority duly given to sign the petition for any local improvements.

“Sec. 8.23. *Proceedings in Rem.* All proceedings for special assessments shall be proceedings in rem, and no mistake or omission as to the name of any owner or person interested in any lot or parcel of land affected thereby shall be regarded as a substantial mistake or omission.

“Sec. 8.24. *Grass Plot and Driveway Maintenance.* It shall be the responsibility of the abutting property owner to maintain any grass plot or driveway between the property line and the curb of a paved street.

“Sec. 8.25. *Abeyance of Certain Water and Sewer Assessments.* (a) Determination by Board; effect. The Board of Commissioners may provide by resolution that assessments levied against abutting lots or parcels of land for water main improvements or sanitary sewer improvements, when in its opinion such improvements may not presently be used by the owner or owners of the abutting lots or parcels of land, may be held in abeyance without the payment of any interest thereon until such time as the Board shall determine that any such assessments shall be paid in accordance with the terms set out in the confirming resolution. A part of the assessments levied for the improvements herein set out on a street or streets or portion thereof may be held in abeyance as herein provided without holding all of said assessments in abeyance.

(b) Statutes of limitations suspended. All statutes of limitations are hereby suspended during the time that any assessment is held in abeyance without the payment of interest as provided in subsection (a). Such time shall not be a part of the time limited for the commencement of action for the enforcement of the payment of any such assessment, and such action may be brought at any time within 10 years from the date of the adoption of a resolution by the Board

determining that such assessment shall be paid in accordance with the terms set out in the confirming resolutions.

(c) Retroactive construction prohibited. Nothing herein shall be construed to revive any right of action which has heretofore been barred by the Statute of Limitations.

“Sec. 8.26. *Abutting Property Outside City Limits.* If any lots or parcels of land abutting any local improvements are located outside the city limits, the Board shall have the power to levy assessments against such property as if said property were located inside the Town limits, but may continue and delay the levy of assessments against such property until the Town limits are extended to include such property, or the Board may provide that no water or sewer service connections shall be made to such property, pending the annexation thereof, until all assessments thereon are paid. Upon annexation, if not paid prior thereto, the Board may levy assessments for such local improvements against such property, and the procedure therefor shall be the same as provided in this Charter. Nothing contained in this section shall be construed to prohibit or restrict the Board of Commissioners and a property owner from entering into an agreement for payments in lieu of assessments.

“Sec. 8.27. *Acreage Charges for Water and Sewer Connections.* The Board of Commissioners may establish and collect acreage charges for making connections to the Town water and sewerage systems, both within and outside the corporate limits, to aid in the financing of new water mains and sewer outfalls and the replacement or enlargement of existing mains and outfalls. Such charges shall apply uniformly to all properties to which water or sewer service is extended subsequent to the establishment of such charges; provided, the Board may establish higher acreage charges for property to be developed for commercial, institutional, or industrial use than those established for property to be developed for other uses, may base acreage charges for residential development on the number of dwelling units per acre of land, and may establish higher acreage charges for property located outside the corporate limits than for property within the corporate limits.

“ARTICLE IX. EMINENT DOMAIN

“Sec. 9.1. *Condemnation; Authority and Procedure.* If at any time the Board of Commissioners of the Town of Zebulon should need to purchase any land within or without the Town limits, deemed necessary for a public use of the city, or for other purposes authorized by this Charter or other applicable law, and cannot agree with the owner of such land as to the compensation to be paid therefor, then the Board of Commissioners of the Town of Zebulon is hereby specifically authorized and empowered to, in the name of the Town, condemn either the fee or an easement in any such land, whether the land be owned by any private person, firm or corporation, or whether it be owned by any railroad company, power company, telephone company, gas company or other quasi-public corporation, or whether the land be devoted to private or public use. The proceedings utilized by the Board of Commissioners for such condemnation and determination of the compensation to be paid may be any of the alternative proceedings provided municipalities by the general laws of the State of North Carolina or those prescribed by Article 9 of Chapter 136 of the North Carolina General Statutes; provided that the Town of Zebulon shall possess the power of eminent domain for the purpose of acquiring the fee or any lesser interest in properties already devoted to the public use and owned by a public service

corporation, including public utilities as defined in Chapter 62 of the General Statutes, and electric and telephone membership corporations, only if such acquisition will not prevent or unreasonably impair the continued devotion to the public use of such properties, and their operation by such public service corporation.

"ARTICLE X. REGULATORY POWERS

"Sec. 10.1. *Subdivisions; Require Installation of Improvements.* (a) In connection with subdivision or platting controls, the Board of Commissioners may require the improvement and grading of streets and the construction and installation of street pavements, curbs, gutters, sidewalks, and water, sewer, surface water drainage and other utility mains as a condition precedent to approval of the plat. The requirements may provide for tentative approval of the plat previous to such improvement and installation, but any such tentative approval shall not be entered on the plat. The requirements may provide that in lieu of completion of the work and installations prior to final approval of the plat, the Board may accept a bond, in an amount and with surety and condition satisfactory to it, providing for and securing to the Town the actual construction and installation of the improvements and utilities within a period specified by the Board and expressed in the bond. The Town is empowered to enforce the bond by all appropriate legal and equitable remedies. Requirements adopted hereunder may be applied throughout the area over which the Town is authorized by law to exercise platting or subdivision controls.

(b) The requirements may provide, in lieu of the completion prior to the final approval of a plat of such work and installation on land within the area over which the Town is authorized by law to exercise platting or subdivision control, for an assessment under this Charter or under Article 10, Chapter 160A of the General Statutes or other statutory authorization whereby the Town may do the work and make the installations at the cost of the owners of the property within the subdivision.

"Sec. 10.2. *Applicable to Public Service Corporations.* All of the provisions of this Article and of any other laws granting planning, zoning and building regulatory powers to the Town of Zebulon, together with any ordinances passed by the Board of Commissioners of the Town in the exercise of such powers, shall be applicable to and enforceable against all public utilities and other public service corporations.

"Sec. 10.3. *Planning Jurisdiction.* The Town of Zebulon shall have jurisdiction for planning and regulation of development as set forth in Article 19 of Chapter 160A of the North Carolina General Statutes and may exercise the powers granted by said Article within an area defined pursuant to G.S. 160A-360 extending not more than one mile beyond the corporate limits of the Town of Zebulon.

"ARTICLE XI. MISCELLANEOUS POWERS

"Sec. 11.1. *Powers Additional to Other Powers.* In addition to the powers now or hereafter granted to municipalities under the general laws of the State of North Carolina, the Town of Zebulon shall have the following expressed powers hereby enumerated in the succeeding sections of this Article.

"Sec. 11.2. *Regulation of Business on Sundays.* The Town of Zebulon shall have the power to regulate or prohibit by ordinance the conduct of business activities on Sundays.

"Sec. 11.3. *Operation of Motor Vehicles upon Certain Premises.* The Town of

Zebulon shall have the power to regulate, by ordinance, the speed and manner of operation of motor vehicles upon the grounds and premises of service stations, drive-in theaters, supermarkets, stores, restaurants, office buildings, or other business or municipal establishments, providing parking space for customers, patrons, or the public within the corporate limits of the Town of Zebulon.

"Sec. 11.4. *Forbidding Entry upon Certain Premises.* Upon the owner or other person in legal possession of the grounds and premises of any service station, drive-in theater, supermarket, store, restaurant, office building, or other business or municipal establishment, providing parking space for customers, patrons, or the public within the corporate limits of the Town of Zebulon, providing to the Police Department of the Town of Zebulon such written authority, any member of the police force of the Town of Zebulon shall have the authority to forbid any person to remain, go, or enter upon said grounds and premises to the same extent as the said owner or other person in legal possession of said premises could do himself.

"Sec. 11.5. *Cemetery Lots; Sale.* The Town Manager may sell cemetery lots in the Town cemeteries, subject to the rules and regulations adopted by the Board of Commissioners. All deeds or instruments conveying title to such lots shall be signed by the Town Manager and need not be attested.

"ARTICLE XII. CLAIMS AGAINST THE TOWN

"Sec. 12.1. *Presentation of Claims; Suit upon Claims.* (a) All claims or demands against the Town of Zebulon arising in tort or in contract shall be presented to the Board of Commissioners in writing, signed by the claimant, his attorney or agent, within 90 days after the claim or demand is due or the cause of action accrues, and no suit or action shall be brought thereon within 30 days or after the expiration of 12 months from the time said claim or demand is so presented. Unless the claim or demand is so presented within 90 days after the cause of action accrues, and unless suit is brought within 12 months after the claim or demand is presented, any action thereon is barred.

(b) No action shall be instituted against the Town for damages to or compensation for real property taken or used by the Town for any public purpose, or for the ejectment of the Town therefrom, or to remove a cloud upon the title thereof, unless, within two years after such alleged use, the owner, his executor, administrator, guardian, or next friend, shall have given notice in writing to the Board of Commissioners of the claim, stating in the notice the date that the alleged use commenced, a description of property alleged to have been used, and the amount of the damage or compensation claimed.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, if a complainant suffers from physical or mental incapacity that renders it impossible for him to give notice, his action shall not be barred if notice of claim is given by him or on his behalf within six months after the termination of his incapacity; provided, that minority shall not of itself constitute physical or mental incapacity. If the complainant is a minor, his action shall not be barred if notice of claim is given on his behalf within three years after the occurrence or the infliction of the injury complained of; or, if the minor suffers from physical or mental incapacity that renders it impossible for him to give notice, his action shall not be barred if notice of claim is given on his behalf within six months after termination of the incapacity, or within three years after the occurrence or the infliction of the injury complained of, whichever is the longer period. The Town may at any time request the appointment of a next friend to represent any

person having a potential claim against the Town and known to be suffering from physical or mental incapacity.

"ARTICLE XIII. CHARTER AMENDMENTS

"Sec. 13.1. *Incorporation of Amendments.* (a) As soon as possible after the adjournment of each General Assembly, the Town Attorney shall present to the Board of Commissioners copies of all local laws relating to the property, affairs and government of the Town of Zebulon that were enacted by such General Assembly, whether or not amending in terms of this Charter, and recommend formal changes in this Charter. Such recommendations may include suggestions for renumbering or rearranging the provisions of such laws, for providing titles and catchlines, and for such other changes in arrangement and form that do not change the law, as may be thought necessary to implement the purposes of this section.

(b) After considering the recommendations of the Town Attorney, the Commissioners may provide for the incorporation of such laws into this Charter.

(c) The purpose of this section is to enable the Town to maintain at all times a current and accurate Town Charter, organized in clear and orderly fashion and embracing all pertinent local laws relating to the property, affairs and government of the Town."

Sec. 2. The purpose of this act is to revise the Charter of the Town of Zebulon and to consolidate herein certain acts concerning the property, affairs, and government of the Town. It is intended to continue without interruption those provisions of prior acts, which are consolidated into this act, so that all rights and liabilities that have accrued are preserved and may be enforced.

Sec. 3. This act shall not be deemed to repeal, to modify, nor in any manner to affect any acts validating, confirming, approving, or legalizing official meetings, actions, contracts, or obligations of any kind.

Sec. 4. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 5. No provision of this act is intended, nor shall be construed, to affect in any way, any rights or interest (whether public or private):

(a) now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act.

(b) derived from, or which might be sustained or preserved in reliance upon, action heretofore taken (including the adoption of ordinances or resolutions) pursuant to or within the scope of any provision of law repealed by this act.

Sec. 6. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(a) the repeal herein of any act repealing such law, or

(b) any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

Sec. 7. (a) All existing ordinances and resolutions of the Town of Zebulon and all existing rules or regulations of department or agencies of the Town of Zebulon not inconsistent with the provisions of this act, shall continue in full force and effect until repealed, modified, or amended.

(b) No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act by or

against the Town of Zebulon or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

Sec. 8. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 9. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 8th day of May, 1973.

H. B. 890

CHAPTER 387

AN ACT TO AMEND ARTICLE 3 OF CHAPTER 139 OF THE GENERAL STATUTES TO AUTHORIZE CAMDEN COUNTY BOARD OF COMMISSIONERS TO ESTABLISH WATERSHED IMPROVEMENT DISTRICTS IN AREAS OF THE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 139-39 is amended to read as follows:

“§ 139-39. *Alternative method of financing watershed improvement programs by special county tax.*—(a) The Board of County Commissioners of Camden County, by adoption of an appropriate resolution, may declare and establish a watershed improvement district within any area of the county or in the county as a whole. If the Board establishes a watershed improvement district in any area of the county, it shall accurately describe the area by delineating the boundaries thereof on a map, or by referring to established geographical features and political boundaries, or in such other manner that the extent and limits of the area can be easily and accurately ascertained; and a certified copy of the description shall be filed permanently with the clerk of superior court and the register of deeds in said county.

(b) The Board of County Commissioners of Camden County is authorized to call a special election to determine whether it be the will of the qualified voters of any area of the county wherein a watershed improvement district is established, or of the qualified voters of the county, if a county-wide watershed improvement district is established, that the Board levy and cause to be collected annually, at the same time and in the same manner as the general county taxes are levied and collected, a special tax at a rate not to exceed twenty-five cents (25¢) on each one hundred dollars (\$100.00) valuation of property in said county, to be known as a ‘Watershed Improvement Tax,’ the funds therefrom, if the levy be authorized by the voters, to be used for the prevention of floodwater and sediment damages, and for furthering the conservation, utilization and disposal of water and the development of water resources.

(c) Every watershed improvement district established pursuant to this act shall constitute a local unit of government and a body corporate and politic, authorized to contract debts and pledge its faith and credit; provided, that any debt contracted or any pledge of the faith and credit by a district established under this act shall be an obligation of that district only and shall not extend to the county as a whole, unless the district has been established as a county-wide district.

(d) If the Board of County Commissioners of Camden County establishes a

county-wide watershed improvement district, all districts previously established by the Board shall become merged with the county-wide district, and said district shall assume and become liable for the obligations of all previously created districts within the county."

Sec. 2. G.S. 139-40(b) is amended by amending the last sentence thereof to read as follows:

"At such special election, the election board shall cause to be placed at each voting precinct in the watershed improvement district a ballot box marked 'Watershed Improvement Tax Election'."

Sec. 3. G.S. 139-40(d) is amended to read as follows:

"(d) If a majority of those voting in such election favor the levying of such a tax, the Board of County Commissioners is authorized to levy a special tax at a rate not to exceed twenty-five cents (25¢) on each one hundred dollars (\$100.00) of assessed value of real and personal property taxable in said district and not to exceed the maximum rate of tax approved by the voters in such election; and the General Assembly does hereby give its special approval for the levy of such special tax."

Sec. 4. This act shall apply to Camden County.

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of May, 1973.

H. B. 936

CHAPTER 388

AN ACT TO ESTABLISH WINSTON-SALEM FIRE-PUBLIC SAFETY RETIREMENT FUND ASSOCIATION.

The General Assembly of North Carolina enacts:

Section 1. That the name of the Association herein established shall be Winston-Salem Fire-Public Safety Retirement Fund Association, hereinafter referred to as the Association. References to the Association as of a date prior to July 1, 1973, shall mean the Winston-Salem Firemen's Retirement Fund Association, which was the name of the Association prior to such date.

Sec. 2. Subject to the provisions of Section 16 hereof, the following persons shall automatically be members of the Association:

(a) As of July 1, 1973, any person who is a member of the Association following the close of business of the Association on June 30, 1973;

(b) As of July 1, 1973, and thereafter, any person not covered under (a) above who shall have (i) been regularly and continuously employed full time by the Fire Department of the City of Winston-Salem (hereinafter referred to as the Fire Department), including any Fire Department mechanic or electrician, or by the Bureau of Public Safety of the City of Winston-Salem (hereinafter referred to as the Bureau of Public Safety), for a period of at least one year, and (ii) shall have attained his twenty-first birthday and shall not have attained his thirty-first birthday. For the purpose of this subsection (b), regular and continuous employment by the Bureau of Public Safety followed immediately by regular and continuous employment by the Fire Department shall be deemed to be regular and continuous employment by the Fire Department, and regular and continuous employment by the Fire Department followed immediately by regular and continuous employment by the Bureau of Public Safety shall be

deemed to be regular and continuous employment by the Bureau of Public Safety.

(c) Notwithstanding the provisions of subsection (b) immediately preceding, as a condition to any person's becoming a member of the Association pursuant to the provisions of subsection 2(b) or 16(a), the Trustees may require such person to undergo a physical examination by a physician or physicians of good standing or repute selected by the Trustees. If it shall be found from such physician's report that such person is not in good physical or mental condition as of the date he would be eligible to become a member of the Association, such person shall be denied membership in the Association. The determinations of whether or not such person shall be required to undergo a physical examination and whether or not he is in good physical or mental condition shall be made by the Trustees. In making such determinations, all persons similarly situated shall be treated alike. The cost of any medical examination required pursuant to the provisions of this subsection (c) shall be borne by the person seeking membership in the Association.

Sec. 3. The Association may provide and raise funds in any legal manner to be used as a pension fund for such person or persons as may be entitled thereto under the provisions of this act and to such extent as is hereinafter set out.

Sec. 4. The governing body of the Association shall consist of a Board of Trustees five in number, four from the membership of the Fire Department, and one to be appointed by the Insurance Commissioner of the State of North Carolina.

Sec. 5. The initial Board of Trustees hereunder shall be the Trustees of the Association as of the close of business of the Association on June 30, 1973. During the first 10 days of January 1974, an election shall be held for the purpose of electing by secret ballot four representatives from the Fire Department to be Trustees. Each fire company may, by majority vote of the active members of the company, nominate one candidate for election as Trustee. Only members of the Association, in good standing, who have continuously served in the Fire Department for a period of at least four years shall be eligible for election as Trustees. The four nominees receiving the largest number of votes cast in such election shall constitute the Trustees from the Fire Department. The two nominees receiving the highest number of votes cast in such election shall hold office for a period of four years. The other two nominees shall hold office for a period of two years. A tie shall be resolved by casting lots. In such election, each member of the Association in good standing may vote for four nominees.

During the first 10 days of January 1976, and during the first 10 days of January for each succeeding year evenly divisible by two, an election shall be held in like manner for the purpose of electing two representatives from the Fire Department to succeed the two Trustees whose terms of office are expiring. In any such election, each member of the Association in good standing may vote for two nominees. The two nominees receiving the largest number of votes cast in such election shall be elected. The Trustees elected in any such election shall hold office for four years.

No fire company shall be allowed to have more than one of its active members on the Board of Trustees at any one time.

Sec. 6. Any Trustee may resign at any time by giving notice in writing to the other Trustees. Should any Trustee who is a member of the Fire

Department cease to be a member of the Fire Department for any reason, he shall automatically cease to be a Trustee. With regard to any Trustee elected by the members of the Association who resigns or ceases to be a Trustee for any reason, his successor shall be elected as provided in Section 5 of this act; provided, that such election shall be held as soon as practicable following such resignation or cessation, each member of the Association in good standing may vote for only one nominee, the one nominee receiving the highest number of votes shall be elected, and the election shall be only for the remaining unexpired term of the predecessor Trustee. Should the Trustee who was appointed by the Insurance Commissioner of the State of North Carolina resign or cease to be a Trustee for any reason, his successor shall be appointed by the said Insurance Commissioner.

Sec. 7. The Board of Trustees is herein fully vested with the exclusive right and authority to pay out the funds of this Association, as provided for in this act. All matters and claims provided for under this act shall be passed upon by said Trustees and all decisions and actions of said Trustees shall be binding upon the Association and the members thereof. Every Trustee shall be entitled to one vote except the chairman of the Board of Trustees, who shall be entitled to vote only to break a tie. At every annual meeting of the Board of Trustees, the Trustees shall elect a chairman, vice-chairman, secretary and treasurer. The secretary and treasurer need not be Trustees, and the offices of secretary and treasurer may be combined into a single office, in the discretion of the Trustees. The annual meeting of the Board of Trustees shall be held as soon as is practicable following the end of each calendar year at such place and at such time as shall be determined by the Trustees.

Sec. 8. The secretary of the Association (or the secretary-treasurer if such offices shall be combined into a single office) shall be entitled to receive compensation in an amount not to exceed one hundred dollars (\$100.00) per month, as determined by the Trustees. The Trustees, as such, including the chairman and vice-chairman, shall serve without compensation. The Trustees may authorize reimbursement by the Association to any officer or Trustee of the Association for all expenses incurred by such person in connection with services rendered in behalf of the Association.

Sec. 9. The Trustees shall elect a custodian of all funds and property of the Association, provided that such custodian shall have first offered proof satisfactory to the Trustees, by bond or otherwise, that it is and will be financially responsible for all property coming into its hands in a fiduciary capacity. Said custodian shall not release any of the funds or property of the Association except upon the written authorization of the Trustees.

Sec. 10. A special meeting of the Board of Trustees may be called by the chairman or vice-chairman, or by any two Trustees, upon 24 hours' written notice delivered in person to the members of said Board or mailed to the last known address of each member of said Board. A majority of the Trustees in office shall constitute a quorum at any meeting and a majority vote of the Trustees at a meeting at which a quorum is present shall constitute action by the Trustees.

Sec. 11. The chairman of the Board of Trustees, when present, shall preside at all meetings. In the absence of the chairman, the vice-chairman shall act as chairman.

Sec. 12. The secretary shall keep in complete form such data as shall be

necessary for actuarial valuation of the funds of the Association and for checking the disbursements for and on behalf of the Association. He shall keep minutes of all proceedings of the Board of Trustees and of the Association, and the same shall be kept in a place selected by the Trustees. The secretary of the Association shall post yearly at each fire station and at the office of the Bureau of Public Safety, as soon as practicable following the end of each year, a financial statement of the Association.

Sec. 13. The treasurer of the Association shall deposit with the custodian all property and money that may come into his hands for the Association. The said treasurer shall obtain a receipt from the custodian for all money or property delivered to the custodian by the treasurer. Said custodian shall invest such cash coming into its hands in such property or securities as may be authorized in writing by a majority vote of the Trustees. Said custodian shall, upon the written authority of the Trustees, dispose of any of the property or securities which it may have on hand and reinvest the proceeds from the sale thereof in such property or securities as may be so authorized by the Trustees, and such custodian shall not be liable to the Association for any losses which may be sustained by reason of investments made under the authority given by the Trustees. Without intending to limit the investment powers of the Trustees, the Trustees are specifically authorized and empowered to invest funds of the Association by depositing such funds with the Winston-Salem Firemen's Credit Union on condition that the Association shall receive the net earnings from the investment by such credit union of any funds so deposited.

Sec. 14. The custodian shall receive such compensation for services rendered as may be agreed upon in writing by the custodian and the Trustees. The Trustees shall have the authority to employ legal counsel when, in the opinion of the Trustees, legal counsel is necessary. In case of such employment, said counsel shall be paid such fees as may be fair and reasonable as agreed upon in writing by the Trustees and the counsel so employed.

Sec. 15. All property of the Association is hereby relieved from any and all claims of persons entitled to relief from the Winston-Salem Firemen's Relief Fund. The North Carolina Firemen's Association, its officers, members, boards and committees, are also hereby relieved of any claim of any kind whatsoever which may be based on past service, present service or future service in the Winston-Salem Fire Department. The Firemen's Relief Fund of the City of Winston-Salem, and the officers, members, boards and committees of said Fund are also hereby relieved of any claim of any kind whatsoever which may be based on past, present or future service in the Winston-Salem Fire Department, if any, so long as any claimant is entitled to benefits under the provisions of this act.

Sec. 16. (a) Notwithstanding the provisions of Section 2 hereof, a person who is not a member of the Association on June 30, 1973, and who is an employee of the Bureau of Public Safety on July 1, 1973, shall become a member of the Association as of the date he first meets the requirements for membership as provided in subsection 2(b) hereof, provided he files a written election with the Trustees within 60 days following the date he first meets such requirements. If he fails to file such election in timely manner, he shall forfeit his right to become a member of the Association.

(b) Effective on and after July 1, 1973, any member of the Association whose employment is transferred from the Fire Department or Bureau of Public

Safety to the Police Department of the City of Winston-Salem (referred to herein as the Police Department), may elect to continue to be a member. Such election shall be in writing filed with the Trustees at any time prior to such transfer of employment. If such election is not filed, such transfer of employment shall be treated as a resignation from the employment of the City of Winston-Salem as provided in Section 22 hereof.

(c) Notwithstanding the foregoing provisions of this Section 16, or the provisions of Section 2 hereof, each of the former employees of the Fire Department who was transferred to the Police Department during the calendar year 1972 and who, as a result of such transfer of employment and consequent termination of membership in the Association, received distributions from the Association equal to the monies paid into the Association by him, may again become a member of the Association by filing a written election for membership with the Trustees by no later than the close of business of the Association on August 30, 1973, and by paying to the Association the sum of the amount distributed to him by the Association upon his transfer of employment plus the amount he would have contributed to the Association following such transfer had he continued to be a member of the Association. If any such former employee of the Fire Department fails to make such timely election, he shall forfeit his right to become a member of the Association.

(d) If any person elects under subsection (b) or (c) immediately preceding either to continue to be a member of the Association or to rejoin the Association, as the case may be, he shall pay to the Trustees each month, prior to the close of the month for which the payment is being made, the same amount as is required under Section 17 hereof to be deducted each month by the Treasurer of the City of Winston-Salem from the salary of members of the Association employed by the Fire Department or Bureau of Public Safety. If any such person electing to continue as a member of the Association or to rejoin the Association shall fail to make any payment due to the Trustees in timely fashion, and such failure shall continue for 60 days or more, such person shall be deemed to have resigned from the employment of the City of Winston-Salem as provided in Section 22 hereof as of the close of such 60-day period.

Sec. 17. The Treasurer of the City of Winston-Salem shall make a monthly deduction from the salary of each member of the Association (except for members in the employ of the Police Department) due him by the City of Winston-Salem in the amount directed in writing by the Trustees, not to exceed ten dollars (\$10.00) per month, and the amount so deducted shall be turned over monthly by the said Treasurer to the treasurer of the Association, who in turn will deliver the same to the custodian of the Association as hereinbefore provided, and the Association shall have the authority to accept donations from any and all sources whatsoever.

Sec. 18. If at any time there shall not be sufficient assets in the retirement fund of the Association to pay fully the persons entitled to benefits provided herein, such persons shall be paid such benefits on a pro rata basis to the extent the assets of such fund will allow, as shall be determined by the Trustees; provided, that the assets of such fund determined as of the close of any fiscal year of the Association shall in no event be less than four hundred thousand dollars (\$400,000).

Sec. 19. Whenever any member of the Association has been employed by the City of Winston-Salem continuously for a period of at least 30 years, such

member may make written application to the Trustees for such benefits as he may be entitled to receive under this act; provided, however, that such member must retire from the service of the City to receive such benefits. The benefits of such member shall be a monthly pension for the remainder of his life, as provided hereinbelow. For this purpose and for the purpose of Section 20 hereof, a member shall be deemed to have been employed by the City of Winston-Salem continuously if such member shall have been employed continuously by any combination of the Fire Department, Bureau of Public Safety or Police Department (but only such employment by the Police Department as is described in subsections 16(b) and (c) hereof), and the transfer of a member from the employ of one of such organizations to the employ of another of such organizations shall not be deemed to be a termination of employment by the City of Winston-Salem.

In the case of a member who retires on or after July 1, 1973, and on or before June 30, 1974, such pension shall be seventy-five dollars (\$75.00) per month. In the case of a member who retires on or after July 1, 1974, such pension shall be one hundred dollars (\$100.00) per month. Payments shall be subject to the provisions of Section 18 of this act.

Sec. 20. Whenever any member of the Association becomes totally and permanently unable, because of infirmity or disease affecting mind or body (whether or not induced by injury) to perform his duties for the City, which inability shall be determined by a medical examination by a physician or physicians of good standing and repute selected by the Trustees, he shall be deemed to be a disabled member. If a disabled member has been employed by the City of Winston-Salem for at least five full years prior to suffering disability, he shall be entitled to retire and receive a monthly benefit payable for the remainder of his life.

In the case of such a disabled member who retires on or after July 1, 1973, and on or before June 30, 1974, such monthly benefit shall be equivalent to three dollars (\$3.00) multiplied by the number of full years of his service in the employment of the City, not to exceed seventy-five dollars (\$75.00) per month. In the case of such a disabled member who retires on or after July 1, 1974, such monthly benefit shall be equivalent to four dollars (\$4.00) multiplied by the number of full years of his service in the employment of the City, not to exceed one hundred dollars (\$100.00) per month. Payments shall be subject to the provisions of Section 18 of this act.

Notwithstanding the foregoing provisions of this Section 20, in the case of a disabled member whose disability shall arise out of injuries incurred in fire safety activities, such as fire fighting, fire training and fire inspection, such monthly benefit shall in no event be less than forty dollars (\$40.00) per month, whether or not such disabled member was employed by the City of Winston-Salem for at least five years prior to suffering such disability. The determination of whether such disability arises out of injuries incurred in fire safety activities shall be made by the Trustees.

Sec. 21. Any disabled member of the Association who retires under Section 20 hereof and who had not been employed by the City of Winston-Salem for a period of at least 30 years prior to retirement, shall be subject to call by the Trustees for reexamination by a physician of good standing and repute selected by the Trustees and, if based upon such examination it is determined by the Trustees that such member is able to perform active duties for the City,

such member may be reinstated and receive for his services the same compensation paid to other employees of the City of his rank or classification. If such member, upon being called by the Trustees, shall refuse to submit to an examination or shall refuse to be reinstated to active duty in the employ of the City after being found to be able to perform active duty, such benefits as he is then receiving under the provisions of this act shall immediately terminate and his membership in this Association shall automatically terminate. But in the event that such member is physically unable to resume active employment, or in the event he is able and willing to resume active employment but no job with the City is open for him at such time, his pension or compensation shall continue until there shall be an opening for such member and he is reemployed by the City. For the purpose of this Section 21, employment with the City of Winston-Salem shall mean only employment with the Fire Department, Bureau of Public Safety, or Police Department (but employment with the Police Department shall be included only with regard to any such member who was employed with the Police Department prior to his retirement under Section 20 hereof).

Sec. 22. When any member of the Association shall resign or be dismissed from employment by the City of Winston-Salem (which for this purpose shall include only employment with the Fire Department, Bureau of Public Safety or Police Department), he shall receive a sum of money equal to all monies paid into the Association by him. Upon the death of any member of the Association while in the employment of the City, a sum of money equal to all monies paid into the Association by such deceased member shall be paid to the beneficiary or beneficiaries designated in writing by such deceased member, or in default thereof, to his estate. If, after retirement, a member of the Association shall die before having received an amount equal to his contributions to the Association, there shall be paid to the beneficiary or beneficiaries designated by such member, or in default thereof to his estate, an amount equal to his contributions less the sum of retirement benefits paid to such member. The reimbursements provided in this Section 22 shall be in cash in a lump sum, unless otherwise determined by the Trustees with the consent in writing of the recipient thereof.

Sec. 23. No amount payable or held by the Association under this act for the benefit of any member or beneficiary thereof shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance or charge, nor shall any amount payable or held under this act for the benefit of any member or beneficiary thereof be in anywise liable for his debts, contracts, liabilities, engagements, or torts, nor be subject to any legal process to levy upon or attach, but the provisions of this Section 23 shall not be applicable as regards any dealings with or obligations to the Winston-Salem Firemen's Credit Union.

Sec. 24. Out of the amount paid to the Insurance Commissioner of the State of North Carolina upon the amount of all premiums on fire and lightning policies covering property situated in the corporate limits of the City of Winston-Salem, the Insurance Commissioner of the State of North Carolina shall pay annually to the Treasurer of the City of Winston-Salem ninety-five percent (95%), and the Treasurer of the City of Winston-Salem shall immediately pay over the same to the treasurer of the Association.

Sec. 25. No member of this Association or Trustee shall be personally liable in any manner whatsoever to any person, association, firm or corporation

by reason of his connection with, or act or acts on behalf of, said Association, unless such act or acts are fraudulently committed.

Sec. 26. If a member of the Association, or an employee of the Fire Department or Bureau of Public Safety who is not a member of the Association due to failure to meet the length of service or minimum age requirements of subsection 2(b) hereof, is granted a leave of absence from employment by the City of Winston-Salem on account of accidental injury or temporary illness, military service during time of active warfare, compulsory military service in time of peace, or other good cause, for the purpose of this act such employee shall be deemed to have remained in the employment of the City during the period of such leave of absence or any extension thereof if he shall return to active service with the City promptly following the end of the period of such leave of absence or extension thereof. During such leave of absence or extension thereof, the Treasurer of the City of Winston-Salem shall make no deductions from the salary, if any, of such member, and such member shall not otherwise be required to make any contributions to the Association during or with respect to such period.

Sec. 27. If any person entitled to benefits under this act shall be physically or mentally incapable of receiving or acknowledging receipt of such benefits, the Trustees, upon receipt of satisfactory evidence of such incapacity and that another person or institution is maintaining such person entitled to benefits, and that no guardian or committee has been appointed for him, may cause any benefits otherwise payable to him to be made to such person or institution so maintaining him.

Sec. 28. The provisions of this act shall be administered on an equitable and nondiscriminatory basis, it being the intent hereof that where the Trustees are given discretionary powers, such powers shall be exercised in an equitable manner and so as to prevent discrimination between persons similarly situated. All assets of the Association shall be administered for the exclusive benefit of the members of the Association and their beneficiaries, and as a fund to provide for such members or beneficiaries the benefits provided in this act. It shall be impossible for any part of the principal or income of the retirement fund of the Association to be used for or diverted to purposes other than for the exclusive benefit of the members of the Association or their beneficiaries as provided in this act; except that the Trustees may use such assets to pay the reasonable expenses incurred in administering the said fund and any debts, liabilities or obligations of said fund. The assets and income of the fund shall be exempt from all taxes, including income taxes, imposed by the State of North Carolina or any political subdivision thereof.

Sec. 29. The fiscal year of the Association shall end on June 30 of each year.

Sec. 30. Throughout this act, use of the masculine pronoun shall include the feminine.

Sec. 31. If any part or section of this act shall be declared unconstitutional or invalid by the Supreme Court of North Carolina or any other court of last resort of competent jurisdiction, it shall in no wise affect the remainder of this act, and the remainder shall remain in full force and effect.

Sec. 32. All the laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 33. Effective as of July 1, 1973, this act amends and supersedes in its

entirety Chapter 402 of the North Carolina Session Laws of 1947, and as heretofore amended.

In the General Assembly read three times and ratified, this the 8th day of May, 1973.

H. B. 1024**CHAPTER 389****AN ACT TO AMEND ARTICLE 52 OF CHAPTER 143 OF THE GENERAL STATUTES, THE NORTH CAROLINA PESTICIDE LAW OF 1971.**

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-442(e) which now reads as follows:

“(e) The Board is authorized and empowered to refuse to register, or to cancel the registration of any or all brands and grades of pesticides as herein provided, upon satisfactory proof that the registrant or applicant has been guilty of fraudulent and deceptive practices in the evasions or attempted evasions of the provisions of this Part, or any rules and regulations promulgated thereunder: Provided, that no registration shall be revoked or refused until the registrant or applicant shall have been given the opportunity for a hearing by the Board, as provided in G.S. 143-464.” is rewritten to read as follows:

“(e) The Board is authorized and empowered to refuse to register, or to cancel the registration of any or all brands and grades of pesticides as herein provided, if the registrant fails or refuses to comply with the provisions of this Part, or any rules and regulations promulgated thereunder, or, upon satisfactory proof that the registrant or applicant has been guilty of fraudulent and deceptive practices in the evasions or attempted evasions of the provisions of this Part, or any rules and regulations promulgated thereunder: Provided, that no registration shall be revoked or refused until the registrant or applicant shall have been given the opportunity for a hearing by the Board, as provided in G.S. 143-464.”

Sec. 2. G.S. 143-452(b) which now is as follows:

“Applications for a pesticide applicator license shall be in the form and shall contain the information prescribed by the Board. Each application shall be accompanied by a fee of twenty-five dollars (\$25.00) for each pesticide applicator's license and in addition an annual inspection fee of ten dollars (\$10.00) for each aircraft to be licensed and five dollars (\$5.00) for each piece of ground equipment to be licensed. Should any equipment fail to pass inspection, making it necessary for a second inspection to be made, the Board shall require an added inspection fee in the same amount as the original fee. In addition to the required inspection, unannounced inspections may be made without charge to determine if equipment is properly calibrated and maintained in conformance with laws and regulations. All licensed equipment shall be identified by a license plate or decal furnished by the Board, at no cost to the licensee, which plate or decal shall be affixed in a location and manner upon such equipment as prescribed by the Board. No applicator inspection or license fee, original or renewal, shall be charged to State agencies or local governments or their employees.” is rewritten to read as follows:

“(b) Applications for a pesticide applicator license shall be in the form and shall contain the information prescribed by the Board. Each application shall be accompanied by a fee of twenty-five dollars (\$25.00) for each pesticide applicator's license. In addition, an annual inspection fee of ten dollars (\$10.00) shall be submitted for each aircraft to be licensed. Should any aircraft fail to

pass inspection, making it necessary for a second inspection to be made, the Board shall require an additional ten dollar (\$10.00) inspection fee. In addition to the required inspection, unannounced inspections may be made without charge to determine if equipment is properly calibrated and maintained in conformance with the laws and regulations. All aircraft licensed to apply pesticides shall be identified by a license plate or decal furnished by the Board at no cost to the licensee, which plate or decal shall be affixed on the aircraft in a location and manner prescribed by the Board. No applicator inspection or license fee, original or renewal, shall be charged to State agencies or local governments or their employees. Inspections of ground pesticide application equipment may be made. Any such equipment determined to be faulty or unsafe shall not be used for the purpose of applying a pesticide(s) until such time as proper repairs and/or alterations are made."

Sec. 3. G.S. 143-460(31) which is as follows:

"'Pesticide operator' means a person who is employed or directly supervised by a pesticide applicator, and who in turn either

- a. Directly supervises activities in the field including recommending controls, handling, mixing, and applying pesticides in the field, and the disposal of waste, excess materials, or containers, or
- b. Is the sole employee engaged in such activities." is repealed.

Sec. 4. G.S. 143-453 is amended by striking the period at the end of subsection (a)(3) and substituting a semicolon therefor and adding the following: "or

(4) As to apprentice aerial pesticide applicators who have met all requirements of the FAA, 30 hours of low level flying while applying water or other inert substance under the direction and supervision of a licensed pesticide applicator (pilot), provided that aerial applications of pesticides by licensed apprentice aerial pesticide applicators are under the direction and supervision of a licensed pesticide applicator (pilot)."

Sec. 5. G.S. 143-452(d) which now reads as follows:

"(d) The Board shall classify licenses to be issued under this Part. Separate classifications shall be specified (i) for ground and aerial methods used by any licensee to apply pesticides, and (ii) covering State and local governmental units engaged in the control of rodents and insects of public health significance. The Board may include such further classifications and subclassifications as the Board considers appropriate. For aerial applications, a license shall be required both for the contractor and the pilot. Each classification shall be subject to separate testing procedures and requirements." is rewritten to read as follows:

"(d) The Board shall classify licenses to be issued under this Part. Separate classifications or subclassifications shall be specified for (i) ground and aerial methods of application, and (ii) State and local government units engaged in the control of rodents and insects of public health significance. The Board may include such further classifications and subclassifications as the Board considers appropriate, including provisions for licensing of apprentice pesticide applicators. For aerial applicators, a license shall be required for both the contractor and the pilot. Each classification and subclassification may be subject to separate testing procedures and requirements."

Sec. 6. The first sentence of G.S. 143-461(2) which reads as follows:

"(2) To authorize the Commissioner by proclamation to suspend or

implement, in whole or in part, particular regulations of the Board which may be affected by variable conditions.” is rewritten to read as follows:

“(2) To authorize the Commissioner by proclamation (a) to suspend or implement, in whole or in part, particular regulations of the Board which may be affected by variable conditions, or (b) to suspend the application of any provision of this Part to any federal or State agency if it is determined by the Commissioner that emergency conditions require such action.”

Sec. 7. G.S. 143-442 is amended by adding a subparagraph (g) as follows:

“(g) Any pesticide declared to be discontinued by the registrant must be registered by the registrant for one full year after distribution is discontinued. Any pesticide in channels of distribution after the aforesaid registration period may be confiscated and disposed of by the Board, unless the pesticide is acceptable for registration and is continued to be registered by the manufacturer or the person offering the pesticide for wholesale or retail sale.”

Sec. 8. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of May, 1973.

H. B. 1222

CHAPTER 390

AN ACT TO RATIFY, APPROVE, CONFIRM AND VALIDATE ALL PROCEEDINGS TAKEN BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF YANCEY IN CONNECTION WITH THE AUTHORIZATION OF \$1,500,000 SCHOOL BONDS OF SAID COUNTY AND THE CALLING OF AN ELECTION THEREON.

The General Assembly of North Carolina enacts:

Section 1. All proceedings heretofore taken by the Board of Commissioners of the County of Yancey in connection with the authorization of one million five hundred thousand dollars (\$1,500,000) School Bonds of said County and the calling of an election upon the question of approving or disapproving the issuance of such Bonds, the indebtedness to be incurred by the issuance thereof and the levy of a tax for the payment thereof are hereby ratified, approved, confirmed and in all respects validated, notwithstanding the provisions of G.S. 153-87.

Sec. 2. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of May, 1973.

S. B. 173

CHAPTER 391

AN ACT TO INCORPORATE THE TOWN OF CALABASH IN
BRUNSWICK COUNTY, NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. The inhabitants in the area hereinafter described are hereby constituted a body politic and corporate under the name of the "Town of Calabash", and are hereby vested with all the powers, rights, privileges, immunities, and authority granted municipalities by the Constitution and general laws of the State.

Sec. 2. The corporate boundaries of the Town of Calabash shall be:

"Begins at a concrete monument (No. 2847) which is the Southeast corner of the R. B. Bennett 'Seafood Kitchen' lot; runs thence with the Bennett lot and property of others, North 87° -20' West 694.6 feet to Concrete Monument No. 2575; thence North 3° East (crossing Highway No. 1163) 604 feet to Concrete Monument No. 2344; thence South 87° East 429.2 feet to concrete Monument No. 2327; thence North 30° -15' West (with the line of property owned by Mrs. Lella Mae Simmons) 265 feet, more or less, to a point in a line lying 500 feet from the Northern edge of the 60 feet wide right-of-way of Highway No. 1163 (as measured perpendicular); thence with said line, in an Easterly direction 529 feet, more or less to the line of the William Carter estate lands; thence with said line, South 30° -15' East 265 feet, more or less, to a pipe at the Northwest corner of a lot owned by Ronald Scheid; thence with his line and the line of the William Carter estate, North 87° -08' East 210.1 feet to a pipe; thence with the Royland Thomas and William Carter estate line, North 86° -55' East 222.4 feet to a pipe at the corner of the Thomas Cemetery; thence across the end of a road North 3° -55' West 30 feet; thence with a 30 ft. road and Wm. Carter estate lands, North 86° -05' East 308 feet to a corner thence South 3° -55' East 160 feet to the Kathleen Moore corner; thence with her line and the Wm. Carter line, South 7° -50' East 160.6 feet to the Northern edge of the Highway 1165; thence with Highway 1165, North 40° -48' East 710 feet, more or less, to the junction of Highway 1167; thence with Highway 1167, North 27° 42' West 525 feet, more or less, to a corner; thence with a line 500 feet North of Highway 1165 (as measured perpendicular) North 40° -48' East 1200 feet, more or less, to a corner; thence South 22° -07' East a line that follows the entrance road from Hwy. 1163 to the Wilson Cemetery and continues to a point in the center of the run of the Calabash River a distance of 3,500 feet; thence down the run of the main channel of the said river 4,250 feet, more or less, to the property line between Carolina Caribbean Corporation and Mrs. Lella Mae Simmons, extended to the approximate center of the main channel of the Calabash River; thence with said line, North 12° -00' West, 2,800 feet, more or less, to Concrete Monument No. 2847, the beginning."

Sec. 3. The initial Board of Commissioners shall consist of five members as herein appointed, who shall serve until the regular municipal election in November 1975, and until their successors are elected and qualified. The following named persons are hereby appointed as the initial Board of Commissioners for the Town of Calabash: J. E. Bryan, Bobby Sommersett, Royland Thomas, Vester Beck, Tommy Lewis.

Sec. 4. Ronald R. Scheid is hereby appointed as the initial Mayor for the

Town of Calabash and shall serve until the regular municipal election to be held in November, 1975.

Sec. 5. A regular municipal election shall be held on Tuesday after the first Monday in November, 1975, and every two years thereafter for the election of the Board of Commissioners and a Mayor. The election shall be non-partisan and decided by simple plurality. No primary election shall be held. The Commissioners and Mayor shall be elected for a term of two years and serve until their successors are elected and qualified.

The elections in the Town of Calabash shall be conducted by the Brunswick County Board of Elections, and except as otherwise provided herein, shall be held and conducted in accordance with Article 23 and 24 of Chapter 163 of the General Statutes.

Sec. 6. Vacancies occurring for any reason in the office of Mayor or Board of Commissioners shall be filled by appointment by the remaining members of the Board of Commissioners for the unexpired term.

Sec. 7. If the effective date of this act falls between January 1 and June 30, the municipality shall, for the purpose of levying taxes for the fiscal year beginning July 1, obtain from the County a record of property in the area which was listed for taxes as of January 1, and the businesses in the area shall be liable for privilege license tax from the effective date of the privilege license tax ordinance.

Sec. 8. This act is effective on ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1973.

S. B. 244

CHAPTER 392

AN ACT TO ESTABLISH A PROGRAM FOR THE CONTROL OF POLLUTION FROM SEDIMENTATION.

The General Assembly of North Carolina enacts:

Section 1. This act shall be known as and may be cited as the "Sedimentation Pollution Control Act of 1973."

Sec. 2. Preamble. The sedimentation of streams, lakes and other waters of this State constitutes a major pollution problem. Sedimentation occurs from the erosion or depositing of soil and other materials into the waters, principally from construction sites and road maintenance. The continued development of this State will result in an intensification of pollution through sedimentation unless timely and appropriate action is taken. Control of erosion and sedimentation is deemed vital to the public interest and necessary to the public health and welfare, and expenditures of funds for erosion and sedimentation control programs shall be deemed for a public purpose. It is the purpose of this act to provide for the creation, administration, and enforcement of a program and for the adoption of minimal mandatory standards which will permit development of this State to continue with the least detrimental effects from pollution by sedimentation.

Sec. 3. Definitions. As used in this act, unless the context otherwise requires:

(a) "Angle of repose for saturated soil conditions" means the angle of

maximum slope at which a heap of any loose soil, thoroughly soaked with moisture, will stand without sliding.

(b) "Commission" means the North Carolina Sedimentation Control Commission.

(c) "Department" means the North Carolina Department of Natural and Economic Resources.

(d) "District" means any Soil and Water Conservation District created pursuant to Chapter 139, North Carolina General Statutes.

(e) "Erosion" means the wearing away of land surface by the action of wind, water, gravity, or any combination thereof.

(f) "Land disturbing activity" means any use of the land by man in residential, industrial, or commercial development, and highway and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation. This act shall not apply to the following land disturbing activities:

1. Those undertaken on agricultural land for the production of plants and animals useful to man, including but not limited to: forages and sod crops, grains and feed crops, tobacco, cotton, and peanuts; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules or goats, including the breeding and grazing of any or all such animals; bees and apiary products; fur animals; and
2. Those undertaken on forest land for the production and harvesting of timber and timber products.
3. Activities undertaken by persons as defined in Section 3(h) who are otherwise regulated by the provisions of G.S. 74-46 through G.S. 74-68, The Mining Act of 1971.

(g) "Local government" means any county, incorporated village, town, or city, or any combination of counties, incorporated villages, towns, and cities, acting through a joint program pursuant to the provisions of this act.

(h) "Person" means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, or other legal entity.

(i) "Secretary" means the Secretary of the Department of Natural and Economic Resources.

(j) "Sediment" means solid particulate matter, both mineral and organic, that has been moved from its site of origin and is in suspension in water.

(k) "Working days" means days exclusive of Saturday and Sunday during which weather conditions permit land disturbing activity to be undertaken.

Sec. 4. *Sedimentation Control Commission.* (a) There is hereby created in the Department of Natural and Economic Resources the North Carolina Sedimentation Control Commission, which is charged with the duty of developing and administering the sedimentation control program provided for in this act. The Commission shall consist of the following members:

1. the Secretary of the Department of Natural and Economic Resources, who shall be chairman, and who may designate some other officer in the Department to act in his stead;
2. a person to be nominated by the Board of the North Carolina Home Builders Association;
3. a person to be nominated by the Carolinas Branch Associated General

Contractors of America;

4. the president, vice-president, or general counsel of a North Carolina public utility company;
5. the Director of the North Carolina Water Resources Research Institute;
6. a member of the State Mining Council who shall be a representative of nongovernmental conservation interests, as required by G.S. 74-38(b);
7. a member of the State Soil and Water Conservation Committee;
8. a member of the State Board of Water and Air Resources;
9. a soil scientist from the faculty of North Carolina State University;
10. two persons who shall be representatives of nongovernmental conservation interests.

(b) Appointment. The Commission members shall be appointed by the Governor and all initial appointments shall be made on or before August 1, 1973. All Commission members, except the person filling position number five, as specified in Section 4(a), above, shall serve staggered terms of office of four years. The person filling position number five shall serve as a member of the Commission, subject to removal by the Governor as hereinafter specified in this Section, so long as he continues as Director of the Water Resources Research Institute. The initial terms of office for members filling positions two, three, and four, as specified in Section 4(a), above, shall expire June 30, 1975; thereafter the terms of office for members filling those positions shall be four years. Any member appointed by the Governor to fill a vacancy occurring in any of the appointments shall be appointed for the remainder of the term of the member causing the vacancy. The Governor may at any time, remove any member of the Commission for inefficiency, neglect of duty, malfeasance, misfeasance, nonfeasance, or, in the case of members filling positions one, five, six, seven, eight, and nine, as specified in Section 4(a), above, because they no longer possess the required qualifications for membership. In each instance appointments to fill vacancies in the membership of the Commission shall be a person or persons with similar experience and qualifications in the same field required of the member being replaced. The office of the North Carolina Sedimentation Control Commission is declared to be an office that may be held concurrently with any other elective or appointive office, under the authority of Article VI, Section 9 of the North Carolina Constitution.

(c) Compensation. The members of the Commission shall receive the usual and customary per diem allowed for the other members of boards and commissions of the State and as fixed in the Biennial Appropriation Act, and, in addition, the members of the Commission shall receive subsistence and travel expenses according to the prevailing State practice and as allowed and fixed by statute for such purposes, which said travel expenses shall also be allowed while going to or from any place of meeting or when on official business for the Commission. The per diem payments made to each member of the Commission shall include necessary time spent in traveling to and from their places of residence within the State to any place of meeting or while traveling on official business for the Commission.

(d) Meetings of Commission. The Commission shall meet at the call of the chairman and shall hold special meetings at the call of a majority of the members.

Sec. 5. Powers and duties of the Commission. (a) The Commission shall, in cooperation with the Secretary of the Department of Transportation and

Highway Safety and other appropriate State and federal agencies, develop, promulgate, publicize, and administer a comprehensive State erosion and sedimentation control program.

(b) To implement this program the Commission shall develop and adopt on or before July 1, 1974, rules and regulations for the control of erosion and sedimentation resulting from land disturbing activities, which rules and regulations may be revised from time to time as may be necessary. Prior to the adoption or revision by the Commission of any rules or regulations authorized by this Section 5, it shall conduct one or more public hearings with respect to such proposed action in accordance with the following procedures:

1. Notice of any hearing shall be given not less than 60 days before the date of the hearing and shall state the date, time, and place of hearing, the subject of the hearing, and the action that the Commission proposes to take. The notice shall either include details of the proposed action, or where the proposed action is too lengthy for publication, as hereinafter provided for, the notice shall specify that copies of the detailed proposed action can be obtained upon request from the Commission.
2. Any such notice shall be published at least once a week for three consecutive weeks in a newspaper of general circulation in the eastern, western and central regions of the State.
3. Any person desiring to be heard at any public hearing shall give notice thereof in writing to the Commission on or before the date set for the hearing. The Commission is authorized to set reasonable time limits for the oral presentation of views by any one person at any public hearing. The Commission shall permit anyone who so desires to file a written argument or other statement with it in relation to any proposed action at any time within 30 days following the conclusion of any public hearing or within any additional time as it may allow by notice given as prescribed in this section.

When the Commission has completed hearings and considered the submitted evidence and arguments with respect to any proposed action pursuant to this Section 5, it shall adopt its final action with respect thereto and shall publish such final action as part of the official regulations of the Department.

(c) The rules and regulations adopted pursuant to subdivision 5(b) for carrying out the erosion and sedimentation control program shall:

1. be based upon relevant physical and developmental information concerning the watershed and drainage basins of the State, including, but not limited to, data relating to land use, soils, hydrology, geology, grading, ground cover, size of land area being disturbed, proximate water bodies and their characteristics, transportation, and public facilities and services;
2. include such survey of lands and waters as may be deemed appropriate by the Commission or required by any applicable laws to identify those areas, including multi-jurisdictional and watershed areas, with critical erosion and sedimentation problems; and
3. contain conservation standards for various types of soils and land uses, which standards shall include criteria and alternative techniques and

methods for the control of erosion and sediment resulting from land disturbing activities.

(d) In implementing the erosion and sedimentation control program, the Commission is authorized and directed to:

1. Assist and encourage local governments in developing erosion and sediment control programs and as part of such assistance to develop a model local erosion control ordinance, and approve, approve as modified, or disapprove local plans submitted to it pursuant to Section 11 of this act;
2. Assist and encourage other State agencies in developing erosion and sedimentation control programs to be administered in their jurisdictions, and to approve, approve as modified, or disapprove such programs submitted pursuant to Section 7 of this act and from time to time review such programs for compliance with regulations issued by the Commission and for adequate enforcement; and to require at its discretion, submission of erosion control plans by those responsible for initiating land disturbing activities for approval prior to commencement of said activities;
3. Develop recommended methods of control of sedimentation and prepare and make available for distribution publications and other materials dealing with sedimentation control techniques appropriate for use by persons engaged in land disturbing activities, general educational materials on erosion and sedimentation control, and instructional materials for persons involved in the enforcement of erosion control regulations, ordinances, and plans.

(e) To assist it in developing the erosion and sedimentation control program required by this act, the Commission is authorized to appoint an advisory committee consisting of technical experts in the fields of water resources, soil science, engineering, and landscape architecture.

(f) All rules and regulations of the Commission promulgated pursuant to this act shall be incorporated either in the Secretary's official regulations or his rules of procedure. All such rules and regulations shall upon adoption be printed and a duly certified copy thereof shall be filed with the Secretary of State and with the several clerks of court of the counties of the State as required by Sections 143-195 through 143-198.1 of the North Carolina General Statutes. Copies shall at all times be kept at the office of the Secretary in sufficient numbers to satisfy all reasonable requests therefor. The Secretary shall codify the regulations and rules promulgated under this act and shall from time to time revise and bring up to date such codifications.

Sec. 6. *Authority of the Secretary.* The sedimentation control program developed by the Commission shall be administered by the Secretary under the direction of the Commission. To this end the Secretary is authorized and directed to employ, with the approval of the Commission, the necessary clerical, technical, and administrative personnel, and to assign tasks to the various divisions of the Department for the purpose of implementing this act. The Secretary, as chairman of the Commission, is authorized to bring enforcement actions pursuant to Sections 15 and 16 of this act.

Sec. 7. *Jurisdiction of the Commission.* (a) The Commission shall have

jurisdiction, to the exclusion of local governments, for the purpose of promulgating regulations concerning land disturbing activities that are:

1. conducted by the State;
2. conducted by the United States;
3. conducted by persons having the power of eminent domain;
4. conducted by local governments;
5. licensed by the United States; or
6. financed in whole or in part by the State or the United States.

(b) The Commission may delegate the jurisdiction conferred by this subdivision 7(a), in whole or in part, to any other State agency that has submitted an erosion control program to be administered by it, if such program has been approved by the Commission as being in conformity with the general State program.

(c) The Commission shall have concurrent jurisdiction with local governments over all other land disturbing activities.

Sec. 8. *Mandatory standards for Land Disturbing Activity.* No land disturbing activity subject to this act shall be undertaken except in accordance with the following mandatory requirements:

(a) No land disturbing activity shall be permitted in proximity to a lake or natural watercourse unless a buffer zone is provided along the margin of the watercourse of sufficient width to confine visible siltation within the twenty-five percent (25%) of the buffer zone nearer the land disturbing activity, provided, that this subsection (a) shall not apply to a land disturbing activity in connection with the construction of facilities to be located on, over, or under a lake or natural watercourse.

(b) No slope may be graded to an angle greater than the angle of repose for saturated soil conditions applicable for the type of soil involved; unless the soil on such slope is retained by some adequate erosion controlling structure or device. In any event, soil left exposed will, within 30 working days of completion of any phase of grading, be planted or otherwise provided with a ground-cover sufficient to restrain erosion.

(c) Whenever land disturbing activity is undertaken on a tract comprising more than one acre, if more than one contiguous acre is uncovered, a ground-cover sufficient to restrain erosion must be planted or otherwise provided within 30 working days on that portion of the tract upon which further active construction is not being undertaken, provided, that this subsection (c) shall not apply to cleared land forming the basin of a reservoir later to be inundated.

Sec. 9. *Enforcement authority of the Commission.* (a) In implementing the provisions of this act the Commission is authorized and directed to:

- (a) Inspect or cause to be inspected the sites of land disturbing activities to determine whether applicable laws, regulations or erosion control plans are being complied with;
- (b) Make requests, or delegate to the Secretary authority to make requests, of the Attorney General or solicitors for prosecutions of violations of this act.

Sec. 10. *Educational activities.* The Commission in conjunction with the Soil and Water Conservation Districts, the North Carolina Agricultural Extension Service, and other appropriate State and federal agencies shall conduct educational programs in erosion and sedimentation control, such

programs to be directed towards State and local governmental officials, persons engaged in land disturbing activities, and interested citizen groups.

Sec. 11. *Local erosion control programs.* (a) Any local government may submit to the Commission for its approval an erosion and sediment control program for its jurisdiction, and to this end local governments are authorized to adopt ordinances, rules and regulations necessary to establish and enforce such control programs, and they are authorized to create or designate agencies or subdivisions of local government to administer and enforce the programs. Two or more units of local government are authorized to establish a joint program and to enter into such agreements as are necessary for the proper administration and enforcement of such program. The resolutions establishing any joint program must be duly recorded in the minutes of the governing body of each unit of local government participating in the program, and a certified copy of each resolution must be filed with the Commission.

(b) The Commission shall review each program submitted and within 90 days of receipt thereof shall notify the local government submitting the program that it has been approved, approved with modifications, or disapproved. The Commission shall only approve a program upon determining that its standards equal or exceed those of the model local erosion control ordinance developed in accordance with Section 5(d) 1.

(c) If the Commission determines that any local government is failing to administer or enforce an approved erosion and sediment control program, it shall notify the local government in writing and shall specify the deficiencies of administration and enforcement. If the local government has not taken corrective action within 30 days of receipt of notification from the Commission, the Commission shall assume enforcement of the program until such time as the local government indicates its willingness and ability to resume administration and enforcement of the program.

Sec. 12. *Approval of plans.* (a) Each local government's erosion and sediment control program shall require that for those land disturbing activities requiring prior approval of an erosion control plan, such plan shall be submitted to the appropriate Soil and Water Conservation District at the same time it is submitted to the local government for approval. The Soil and Water Conservation District or Districts, within 20 days after receipt of the proposed plan, or within such additional time as may be prescribed by the local government, shall review the plan and submit its comments and recommendations to the local government. Failure of the Soil and Water Conservation District to submit its comments and recommendations within 20 days or within the prescribed additional time shall not delay final action on the proposed plan by the local government.

(b) Local governments shall review each erosion control plan submitted to them and within 30 days of receipt thereof shall notify the person submitting the plan that it has been approved, approved with modifications, or disapproved. A local government shall only approve a plan upon determining that it complies with all applicable State and local regulations for erosion and sediment control.

(c) The disapproval or modification of any proposed erosion control plan by a local government shall entitle the person submitting the plan to a public hearing if such person submits written demand for a hearing within 15 days after receipt of written notice of the disapproval or modification. The hearings shall be conducted pursuant to procedures adopted by the local government. Judicial

review of the final action of the local government on the proposed plan may be had in the superior court of the county in which the local government is situated.

(d) With respect to approved plans for erosion control in connection with land disturbing activities, the approving authority, either the Commission or a local government, shall provide for periodic inspections of the land disturbing activity to insure compliance with the approved plan, and to determine whether the measures required in the plan are effective in controlling erosion and sediment resulting from the land disturbing activities. Notice of such right of inspection shall be included in the certificate of approval for the plan. If the approving authority determines that the person engaged in the land disturbing activities has failed to comply with the plan, the authority shall immediately serve upon that person by registered mail a notice to comply. The notice shall set forth the measures needed to come into compliance with the plan and shall state the time within which such measures must be completed. If the person engaged in the land disturbing activities fails to comply within the time specified, he shall be deemed in violation of this act.

Sec. 13. *Cooperation with the United States.* The Commission is authorized to cooperate and enter into agreements with any agency of the United States Government in connection with plans for erosion control with respect to land disturbing activities on lands that are under the jurisdiction of such agency.

Sec. 14. *Financial and other assistance.* The Commission and local governments are authorized to receive from federal, State, and other public and private sources financial, technical, and other assistance for use in accomplishing the purposes of this act.

Sec. 15. *Penalties.* (a) Civil penalties.

1. Any person who violates any of the provisions of this act or any ordinance, rule, regulation, or order adopted or issued pursuant to this act by the Commission or by a local government, or who initiates or continues a land disturbing activity for which an erosion control plan is required except in accordance with the terms, conditions, and provisions of an approved plan, shall be subject to a civil penalty of not more than one hundred dollars (\$100.00). No penalty shall be assessed until the person alleged to be in violation has been notified of the violation. Each day of a continuing violation shall constitute a separate violation under this subdivision 15(a)(1).
2. The Secretary, for violations under the Commission's jurisdiction, or the governing body of any local government having jurisdiction, shall determine the amount of the civil penalty to be assessed under this subdivision 15(a) and shall make written demand for payment upon the person responsible for the violation, and shall set forth in detail the violation for which the penalty has been invoked. If payment is not received or equitable settlement reached within 60 days after demand for payment is made, the Secretary shall refer the matter to the Attorney General for the institution of a civil action in the name of the State in the superior court of the county in which the violation is alleged to have occurred to recover the amount of the penalty, and local governments shall refer such matters to their respective attorneys for the institution of a civil action in the name of the local government in

the appropriate division of the General Court of Justice of the county in which the violation is alleged to have occurred for recovery of the penalty. Any sums recovered shall be used to carry out the purposes and requirements of this act.

(b) Criminal penalties. Any person who knowingly or willfully violates any provision of this act or any ordinance, rule, regulation, or order duly adopted or issued by the Commission or a local government, or who knowingly or willfully initiates or continues a land disturbing activity for which an erosion control plan is required, except in accordance with the terms, conditions, and provisions of an approved plan, shall be guilty of a misdemeanor punishable by imprisonment not to exceed 90 days, or by a fine not to exceed five thousand dollars (\$5,000), or by both, in the discretion of the court.

Sec. 16. Injunctive relief. (a) Violation of State program. Whenever the Secretary has reasonable cause to believe that any person is violating or is threatening to violate the requirements of this act he may, either before or after the institution of any other action or proceeding authorized by this act, institute a civil action for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the superior court of the county in which the violation or threatened violation is occurring or about to occur, and shall be in the name of the State upon the relation of the Secretary.

(b) Violation of local program. Whenever the governing body of a local government having jurisdiction has reasonable cause to believe that any person is violating or is threatening to violate any ordinance, rule, regulation, or order adopted or issued by the local government pursuant to this act, or any term, condition or provision of an erosion control plan over which it has jurisdiction, may, either before or after the institution of any other action or proceeding authorized by this act, institute a civil action in the name of the local government for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the superior court of the county in which the violation is occurring or is threatened.

(c) Upon determination by a court that an alleged violation is occurring or is threatened, it shall enter such orders or judgments as are necessary to abate the violation or to prevent the threatened violation. The institution of an action for injunctive relief under subdivisions (a) or (b) of this Section 16 shall not relieve any party to such proceeding from any civil or criminal penalty prescribed for violations of this act.

Sec. 17. Civil relief. (a) Any person injured by a violation of this act or any ordinance, rule, regulation, or order duly adopted by the Secretary or a local government, or by the initiation or continuation of a land disturbing activity for which an erosion control plan is required other than in accordance with the terms, conditions, and provisions of an approved plan, may bring a civil action against the person alleged to be in violation (including the State and any local government). The action may seek:

1. injunctive relief;
2. an order enforcing the law, rule, regulation, ordinance, order or erosion control plan violated; or
3. damages caused by the violation; or
4. both damages and injunctive relief; or
5. both damages and an enforcement order.

If the amount of actual damages as found by the court or jury in suits brought

under this subdivision 17(a) is five hundred dollars (\$500.00) or less, the plaintiff shall be awarded double the amount of actual damages; if the amount of actual damages as found by the court or jury is greater than five hundred dollars (\$500.00), the plaintiff shall receive damages in the amount so found.

(b) Civil actions under this Section 17 shall be brought in the superior court of the county in which the alleged violations occurred.

(c) The court, in issuing any final order in any action brought pursuant to this Section 17 may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever it determines that such an award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security, the amount of such bond or security to be determined by the court.

(d) Nothing in this Section 17 shall restrict any right which any person (or class of persons) may have under any statute or common law to seek injunctive or other relief.

Sec. 18. If any provision of this act or the application thereof to any person or circumstance is declared invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 19. All laws, including local enabling laws, in conflict with this act are repealed.

Sec. 20. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 9th day of May, 1973.

S. B. 544

CHAPTER 393

AN ACT PROVIDING AUTHORITY FOR THE COUNTY BOARD OF COMMISSIONERS OF CUMBERLAND COUNTY TO APPOINT AN EX-OFFICIO MEMBER AND OFFICER TO COUNTY BOARDS, COMMISSIONS, AND AGENCIES WHERE LOCAL LAWS DESIGNATE COUNTY TREASURER.

Whereas, certain laws applicable to Cumberland County, such as Chapter 360 of 1965 Session Laws, provide that the Treasurer of Cumberland County shall, by virtue of his office, be a member or officer of any board or commission of any agency or instrumentality of Cumberland County by virtue of his office as Treasurer of Cumberland County and perform the function of Treasurer of such agency; and,

Whereas, the office of County Treasurer of Cumberland County has been abolished; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. That the Board of County Commissioners of Cumberland County is hereby authorized to appoint a suitable person to serve in the place and stead of the Treasurer of Cumberland County on any board or commission of any agency or instrumentality of Cumberland County and to perform the function of Treasurer of any such agency or instrumentality where local laws heretofore enacted by the General Assembly of North Carolina now provide that the Treasurer of Cumberland County, by virtue of his office, shall be a board or commission member or the treasurer of such agency or instrumentality, and

upon appointment by the Board of County Commissioners of Cumberland County, the person so appointed shall be vested with such office and such authority and responsibility as is provided and intended to be vested and carried out by the Treasurer of Cumberland County.

Sec. 2. The provisions of all local laws applicable to Cumberland County, North Carolina, in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1973.

H. B. 554

CHAPTER 394

AN ACT TO AMEND ARTICLE IV OF THE CONSTITUTION OF NORTH CAROLINA TO CHANGE THE NAME OF THE SOLICITOR TO DISTRICT ATTORNEY.

The General Assembly of North Carolina enacts:

Section 1. The caption to Section 18, and subsection (1) of Section 18 of Article IV of the Constitution of North Carolina, is rewritten to read as follows:
"Section 18. District Attorney and prosecutorial districts.

(1) District Attorneys. The General Assembly shall, from time to time, divide the State into a convenient number of prosecutorial districts, for each of which a District Attorney shall be chosen for a term of four years by the qualified voters thereof, at the same time and places as members of the General Assembly are elected. The District Attorney shall advise the officers of justice in his district, be responsible for the prosecution on behalf of the State of all criminal actions in the Superior Courts of his district, perform such duties related to appeals therefrom as the Attorney General may require, and perform such other duties as the General Assembly may prescribe."

Sec. 2. The amendment set out in Section 1 of this act shall be submitted to the qualified voters of the State at the next general election. That election shall be conducted under the laws then governing elections in this State. At that election, each qualified voter desiring to vote shall be provided a ballot on which shall be printed the following:

☐ FOR constitutional amendment changing the title of the constitutional office of 'Solicitor' to 'District Attorney'.

☐ AGAINST constitutional amendment changing the title of the constitutional office of 'Solicitor' to 'District Attorney'."

Those qualified voters favoring the amendment set out in Section 1 of this act shall vote by marking an X or a check mark in the square beside the statement beginning "FOR", and those qualified voters opposed to that amendment shall vote by marking an X or check mark in the square beside the statement beginning "AGAINST".

Notwithstanding the foregoing provisions of this section, voting machines may be used in accordance with rules and regulations prescribed by the State Board of Elections.

Sec. 3. If a majority of the votes cast thereon are in favor of the amendment set out in Section 1 of this act, then the Governor shall certify the amendment to the Secretary of State, who shall enroll the amendment so

certified among the permanent records of his office, and the amendment shall become effective on the first day of the next succeeding month.

Sec. 4. All laws and clauses of laws in conflict with this act are repealed.

Sec. 5. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1973.

H. B. 802

CHAPTER 395

AN ACT TO AMEND CHAPTER 456 OF THE 1953 SESSION LAWS RELATING TO TYRRELL COUNTY AND THE TOWN OF COLUMBIA A.B.C. STORE PROFITS.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of Chapter 456 of the 1953 Session Laws is hereby rewritten to read as follows:

“Sec. 3. In consideration of the services rendered by the Police Officers of the Town of Columbia, all funds expended by the Tyrrell County Board of Alcoholic Control for law enforcement shall be paid to the Town of Columbia, and such funds paid to such town shall not in any fiscal year be less than five percent (5%) nor more than ten percent (10%) of the total annual profits of all Tyrrell County Alcoholic Beverage Control stores.

Sec. 2. Section 4 of Chapter 456 of the 1953 Session Laws is hereby amended by adding at the end thereof a new sentence to read as follows:

“And the Chief of Police of the Town of Columbia, or one of his designated officers, shall attend the regularly scheduled monthly meeting of the Tyrrell County Board of Alcoholic Control each month and then and there report to said Board his activities in reference to matters of law enforcement pertaining to Alcoholic Beverage Control during the preceding month.”

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1973.

H. B. 803

CHAPTER 396

AN ACT TO REPEAL CHAPTER 605 OF THE 1937 PUBLIC-LOCAL LAWS OF NORTH CAROLINA RELATING TO THE SALE OF BEVERAGES IN TYRRELL COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 605 of the 1937 Public-Local Laws of of North Carolina are hereby repealed.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1973.

H. B. 804

CHAPTER 397

AN ACT RELATING TO THE SALARY OF THE SHERIFF OF TYRRELL COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The Sheriff of Tyrrell County shall henceforth be compensated by means of a salary fixed and determined in accordance with the provisions of Article 6A, Chapter 153 of the General Statutes of North Carolina or any statute revising or superceding Article 6A.

Sec. 2. Chapter 991, Session Laws of 1945, and Chapter 994, Session Laws of 1953, are hereby repealed.

Sec. 3. This act shall become effective on December 2, 1974.

In the General Assembly read three times and ratified, this the 9th day of May, 1973.

H. B. 814

CHAPTER 398

AN ACT TO CONSOLIDATE AND REWRITE THE LAWS PERTAINING TO THE CIVIL SERVICE BOARD OF MECKLENBURG COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 409 of the Session Laws of 1961 and all amendments thereto are hereby rewritten as set out in this act but nothing in this act shall affect the continuity of the Civil Service Board of Mecklenburg County nor the continuity of service of any member of the police department of Mecklenburg County.

Sec. 2. The Civil Service Board of Mecklenburg County is continued and its three present members shall continue to serve until, on March 4 of the applicable year, their respective terms expire. At the expiration of the term of each member the Senior Regular Resident Judge of the Superior Court shall appoint a successor to serve for a term of three years. Any vacancy shall be filled by the judge, and the person appointed shall serve for the unexpired term of the member whose place he fills. Members of the Board shall hold office until their successors are appointed and have qualified. No member of the Board who has served for a full term of three years shall be qualified to succeed himself.

Sec. 3. The members of the said Civil Service Board shall possess the qualifications of a voter of Mecklenburg County and shall take an oath (or affirmation) for the faithful discharge of the duties of their office. The members of the said Civil Service Board shall be citizens and residents of Mecklenburg County. The members of the Board shall be subject to removal from office by the Senior Resident Judge of the Superior Court for malfeasance in office, or for neglect or violation of any official duty connected with the Civil Service Board, or for any violation of the laws of the State of North Carolina, or for any cause which, in the discretion of the said judge, makes such removal in the best interest of the public.

Sec. 4. The Civil Service Board shall recommend requirements of applicants for employment in the police department of the County of Mecklenburg, and shall recommend all such general rules and regulations for requirements of applicants, the conduct and the services of the employees of the said department to the Board of County Commissioners for approval and adoption. Said rules and regulations shall be printed and made available for

public inspection and for the use of the employees of, and the applicants for employment in, said department.

Sec. 5. All applicants for positions on the police force of Mecklenburg County shall be subject to an examination by the Civil Service Board, which examination shall be competitive and open to all persons who are qualified voters of Mecklenburg County, subject to a reasonable limitation as to residence, age, health, moral character and general reputation. Said examination shall relate to those matters which will fairly test the relative ability of the person examined to discharge in a proper fashion the duties of the position to which he seeks to be appointed, and shall include tests of physical, mental and moral qualifications, but no applicant shall be examined concerning his political opinions or affiliations. Due regard shall be given by said Civil Service Board in its examination of applicants for positions in the police force to the experience or training of any applicant which may fit him for the duties which he would be called upon to discharge as a member of the department.

Sec. 6. Notice of the time and place of every examination shall be made public by publication daily for one week immediately preceding such examination in some newspaper published in Mecklenburg County, said notice to set forth the number and kind of vacancies in the department which are to be filled by the Civil Service Board. All other news media is to be notified by a press release at least one week prior to said examination.

Sec. 7. The Civil Service Board shall prepare and keep a register of persons successfully passing examinations given by the Board for appointments and promotions, such persons to be graded according to their respective showing upon said examination. The Chief of Police shall recommend to the Civil Service Board who shall approve appointments to vacancies and promotions which occur in the department on a basis of the written, oral, moral, and physical examinations so given. All examinations given by the Civil Service Board shall be made under rules and regulations established by the Civil Service Board and approved by the Board of County Commissioners.

Sec. 8. The Civil Service Board shall have authority to elect from its members a permanent secretary, who shall hold office for one year subject to reelection upon the approval of the Civil Service Board. Said secretary shall keep the minutes of the proceedings of the Civil Service Board and shall be the custodian of all the papers and records pertaining to the business of the Board, and shall keep an accurate record of all examinations held and the results thereof, and shall perform such other duties as the Board shall direct. All of the records of the Civil Service Board shall be open to the inspection of the public at all times.

Sec. 9. The Chairman and members of the Board of County Commissioners of the County of Mecklenburg shall provide suitable meeting rooms for the Civil Service Board and shall allow such reasonable use of public buildings for the holding of examinations by said Board as may be necessary for a proper conduct of the affairs of the Board.

Sec. 10. The members of said Civil Service Board shall receive the sum of ten dollars (\$10.00) per diem for each meeting of the said Civil Service Board not to exceed two meetings per month.

Sec. 11. The police department shall consist of a chief, supervisory personnel, police officers, and other personnel that the Board of County Commissioners shall, in its discretion, deem necessary. All employees of the

police department shall receive such compensation as the Board of County Commissioners may deem adequate and sufficient. The compensation of all employees in the police department shall be paid as other county employees. The Board of County Commissioners shall have authority to employ a person or persons, not exceeding three, at times when deemed necessary, to do special investigation and police work anywhere in Mecklenburg County, said appointed employee or employees to be paid out of the general fund of Mecklenburg County such compensation as is deemed adequate and sufficient by the Board of County Commissioners.

Sec. 12. The chief of the police department shall be appointed by the Board of County Commissioners or its designated official. The chief of the police department and the members of said department shall be under the direction and control of, and shall be directly responsible to, the Board of County Commissioners of Mecklenburg County, or its designated official for the proper administration and the enforcement of the laws of the State of North Carolina, Mecklenburg County. The Board of County Commissioners of Mecklenburg County shall have the power in their discretion to dismiss from office the chief of the police department for malfeasance in office, drunkenness, dishonesty, neglect of official duty, or for failure to obey the order duly issued to him by the Chairman of the Board of County Commissioners or its designated official. The right of appeal for the chief for dismissal shall be the same as other county department heads.

Sec. 13. The chief of the police department may suspend any employee of the department for any misconduct in office, drunkenness, dishonesty, insubordination, or for the infraction of any rules laid down by the Board of County Commissioners or the Civil Service Board, pending an investigation by the Civil Service Board, such suspension not to exceed 15 days at one time. In case of suspension of any officer or employee as provided in this act, the Civil Service Board shall make a thorough investigation into the charges made against the officer or employee by any citizen or official of Mecklenburg County, or member of the Civil Service Board; and the Civil Service Board may dismiss, remove or discharge any officer or employee of the department upon the conclusion of any such hearing for the causes hereinbefore set out, after first giving the accused employee ample opportunity to be heard in his own behalf.

Sec. 14. Each calendar month the chief of the police department shall make out and certify to the Board of County Commissioners and to the Civil Service Board a statement of the conduct of the affairs of his department, which report shall contain any suggestions which the chief may have for improvement in the service or personnel of the department. Said report shall be kept in the files of the Civil Service Board and in the files of the Board of County Commissioners and shall constitute an official record with said bodies.

Sec. 15. On the first of each year the Civil Service Board shall make an annual report of its actions for the preceding year, including the rules and regulations in force, to the Senior Resident Judge of the Superior Court and the County Commissioners. Said report may include any recommendations of the Board as to the practical effects of the rules or system in use, together with any suggestions which the members of the Board may deem proper for the improvement of the department.

Sec. 16. Officers or employees of the police department of Mecklenburg

County shall be subject to the same rules, regulations and laws regarding political activities as other county employees.

Sec. 17. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 18. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1973.

H. B. 822 CHAPTER 399

AN ACT AMENDING THE CHARTER OF THE CITY OF DURHAM TO AUTHORIZE THE PUBLIC SAFETY DIRECTOR TO SIGN WARRANTS OF APPOINTMENT FOR POLICE OFFICERS.

The General Assembly of North Carolina enacts:

Section 1. That Section 39 of the Charter of the City of Durham, the same being Chapter 142, Private Laws of 1921, as amended, be, and the same is hereby, amended by inserting the words "or the Director of Public Safety" immediately after the word "Manager" and immediately before the word "in" in the thirteenth line of said section so that the fifth full sentence of said section shall read "Each member of the police force, both rank and file, shall have issued to him a warrant of appointment signed by the City Manager or the Director of Public Safety in which the date of his appointment shall be stated, and such warrant shall be his commission."

Sec. 2. This act shall apply only to the City of Durham.

Sec. 3. This act shall be in full force and effect upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1973.

H. B. 824 CHAPTER 400

AN ACT AMENDING G.S. 160A-381 TO PERMIT THE GOVERNING BODY OF THE CITY OF DURHAM TO REQUIRE THE SUBMISSION OF DEVELOPMENT PLANS WITH REZONING REQUESTS AND THE SUBMISSION OF SITE PLANS SHOWING PROPOSED CONSTRUCTION AS A CONDITION PRECEDENT TO ISSUANCE OF BUILDING PERMITS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-381 is hereby amended by adding at the end thereof the following provision:

"The City Council of the City of Durham may require that a development plan showing the proposed development of property be submitted with any request for rezoning of such property. The City Council may consider such development plan in its deliberations and may require that any site plan subsequently submitted be in conformity with any such approved development plan.

The City Council of the City of Durham may require that a site plan be submitted and approved prior to the issuance of any building permit. The City Council may specify the information to be set forth in a site plan and may require that such site plan be prepared by a professional engineer, architect, or land surveyor licensed to practice in North Carolina. The City Council may

prescribe procedures for the review of such site plans to insure that development of property shall conform to applicable zoning and building laws and regulations or any other relevant law or regulation. The City Council may require that site plans be in conformity with previously approved development plans for the same property.”

Sec. 2. This act shall apply only to the City of Durham.

Sec. 3. This act shall be in full force and effect upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1973.

H. B. 826

CHAPTER 401

AN ACT AMENDING THE CHARTER OF THE CITY OF DURHAM BY DELETING FROM SECTION 66 THEREOF REFERENCE TO “FEME COVERTS” AS A STATE OF DISABILITY.

The General Assembly of North Carolina enacts:

Section 1. That the Charter of the City of Durham, the same being Chapter 142, Private Laws of 1921, as amended, be, and the same is hereby, amended by deleting from the last sentence of Section 66 thereof the words “feme coverts or” and by deleting from the last line of said section the word “respective” so that the clause following the colon in the third from the last line of said section shall read as follows: “provided, nothing herein contained shall affect the rights of infants until two years after the removal of their disabilities”.

Sec. 2. This act shall apply only to the City of Durham.

Sec. 3. This act shall be in full force and effect upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1973.

H. B. 827

CHAPTER 402

AN ACT AMENDING G.S. 160A-372 TO PERMIT THE GOVERNING BODY OF THE CITY OF DURHAM TO ACCEPT PAYMENTS IN LIEU OF DEDICATION OF RECREATION AREAS IN SUBDIVISIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-372 is hereby amended by inserting after the word “subdivision” in line six of the first paragraph of said section and before the comma following the word “subdivision” in said sixth line the following words: “or for the payment in lieu thereof of such sum of money as the City Council may determine to be the equivalent in value of any such recreation area,”.

Sec. 2. The City Council may use any monies received in lieu of dedicated recreation areas for acquiring recreation areas beyond the boundaries of the immediate subdivision but within the neighborhood wherein the subdivision lies.

Sec. 3. This act shall apply only to the City of Durham.

Sec. 4. This act shall be in full force and effect upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1973.

H. B. 828

CHAPTER 403

AN ACT CLARIFYING THE AUTHORITY OF THE GOVERNING BODY OF THE CITY OF DURHAM TO APPORTION ASSESSMENTS ON SUBDIVIDED PROPERTY WITHOUT THE NECESSITY OF A PETITION FROM THE OWNERS OF SUCH PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. The provisions of Chapter 1277, Session Laws of 1949, are in all respects reenacted, ratified and confirmed.

Sec. 2. All proceedings instituted pursuant to provisions of Chapter 1277, Session Laws of 1949, shall be deemed valid.

Sec. 3. This act shall apply only to the City of Durham.

Sec. 4. This act shall be in full force and effect upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1973.

H. B. 829

CHAPTER 404

AN ACT AMENDING G.S. 160A-446 RELATING TO MUNICIPAL HOUSING APPEALS BOARDS BY AUTHORIZING THE GOVERNING BODY OF THE CITY OF DURHAM TO DELEGATE TO SUCH BOARD AUTHORITY TO ORDER EFFECTUATION OF THE PROVISIONS OF ANY ORDER ISSUED PURSUANT TO PART 6 OF ARTICLE 19 OF CHAPTER 160A OF THE GENERAL STATUTES OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-446(a) is hereby amended by adding a new sentence at the end of said subsection, said sentence to read in words as follows:

“The Governing Body may, by ordinance, authorize such Housing Appeals Board to adopt ordinances ordering the public officer to proceed to effectuate the purpose of this Article, as provided in G.S. 160A-443(5), with respect to any particular property or properties which the public officer shall have found to be unfit for human habitation and which property or properties shall be described in such ordinance, without the necessity of further action by the Governing Body.”

Sec. 2. This act shall apply only to the City of Durham.

Sec. 3. This act shall be in full force and effect upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1973.

H. B. 831

CHAPTER 405

AN ACT AMENDING CHARTER OF THE CITY OF DURHAM WITH
RESPECT TO THE OFFICE OF CITY ATTORNEY.

The General Assembly of North Carolina enacts:

Section 1. That the Charter of the City of Durham, the same being Chapter 142, Private Laws of 1921, as amended, be, and the same is hereby, further amended by adding to Section 22 of said Charter a new sentence in words as follows:

"The City Attorney shall appoint and suspend or remove all subordinate attorneys and other employees of the City Attorney's Office."

Sec. 2. This act shall apply only to the City of Durham.

Sec. 3. This act shall be in full force and effect upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1973.

H. B. 835

CHAPTER 406

AN ACT AMENDING THE CHARTER OF THE CITY OF DURHAM TO
CLARIFY THE AUTHORITY OF THE GOVERNING BODY OF THE
CITY OF DURHAM TO LEASE PUBLIC PROPERTY OR GRANT
EASEMENTS THEREON.

The General Assembly of North Carolina enacts:

Section 1. That Section 35 of the Charter of the City of Durham, the same being Chapter 142, Private Laws of 1921, as amended, be and the same is hereby amended by striking the first full sentence therefrom and substituting instead a new sentence reading as follows:

"No public utility franchise and no renewal or extension thereof shall be granted except by ordinance."

Sec. 2. This act shall apply only to the City of Durham.

Sec. 3. This act shall be in full force and effect upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1973.

H. B. 839

CHAPTER 407

AN ACT AMENDING THE CHARTER OF THE CITY OF DURHAM TO
CLARIFY THE AUTHORITY OF THE GOVERNING BODY OF THE
CITY OF DURHAM TO DISPOSE OF PROPERTY BY PRIVATE SALE
OR OTHERWISE.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the City of Durham, the same being Chapter 142, Private Laws of 1921, as amended, is hereby amended by repealing Section 32 thereof and inserting instead a new section to read as follows:

"Sec. 32. *Sale of Public Property.* The City Council may, upon the affirmative vote of at least seven members of the City Council, publicly or privately sell, lease, rent, exchange or otherwise convey, or cause to be publicly

or privately sold, leased, rented, exchanged or otherwise conveyed, any property, real or personal, or any interest in such property, belonging to the City."

Sec. 2. This act shall apply only to the City of Durham.

Sec. 3. This act shall be in full force and effect upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1973.

H. B. 841

CHAPTER 408

AN ACT AMENDING THE CHARTER OF THE CITY OF DURHAM WITH RESPECT TO THE DURATION OF CONTRACTS FOR THE PRICE OF USING WATER.

The General Assembly of North Carolina enacts:

Section 1. That the Charter of the City of Durham, the same being Chapter 142, Private Laws of 1921, as amended, be, and the same is hereby, further amended by repealing the seventh full paragraph in Section 43 of said Charter, which paragraph, as repealed, reads as follows:

"The said City Council shall make no contracts for the price of using the water for a longer time than three (3) years."

Sec. 2. This act shall apply only to the City of Durham.

Sec. 3. This act shall be in full force and effect upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1973.

H. B. 842

CHAPTER 409

AN ACT CLARIFYING THE AUTHORITY OF THE GOVERNING BODY OF THE CITY OF DURHAM TO APPOINT CERTAIN EMPLOYEES.

The General Assembly of North Carolina enacts:

Section 1. The authority of the City Council of the City of Durham to appoint the City Clerk, the City Treasurer, the Director of Finance and the Collector of Revenue, as set forth in Sections 21, 24, 25, and 26 of the Charter of the City of Durham, the same being Chapter 142, Private Laws 1921, is ratified and confirmed.

Sec. 2. This act shall apply only to the City of Durham.

Sec. 3. This act shall be in full force and effect upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1973.

H. B. 843

CHAPTER 410

AN ACT AMENDING THE CHARTER OF THE CITY OF DURHAM TO CLARIFY THE REQUIREMENTS FOR FILLING VACANCIES WHICH MAY OCCUR ON THE CITY COUNCIL OF THE CITY OF DURHAM.

The General Assembly of North Carolina enacts:

Section 1. That the Charter of the City of Durham, the same being Chapter 142, Private Laws of 1921, as amended, be, and the same is hereby, further amended by repealing from Section 16 of said Charter the clause following the word "and" in the next to the last line of said section, said words as repealed reading as follows: "reside in the ward from which the alderman whose

place is to be filled was elected” and inserting instead a new clause to read as follows: “if the vacancy to be filled occurs in a seat occupied by an alderman nominated from a ward, then such person chosen to fill such vacancy shall reside in the ward from which the alderman whose place is to be filled was nominated.”

Sec. 2. This act shall apply only to the City of Durham.

Sec. 3. This act shall be in full force and effect upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1973.

H. B. 844

CHAPTER 411

AN ACT TO AMEND GENERAL STATUTES 160A-388 BY PROVIDING FOR THE APPOINTMENT OF A FIVE MEMBER BOARD OF ADJUSTMENT EXCLUSIVE OF MEMBERS APPOINTED FROM EXTRATERRITORIAL AREA AND BY REQUIRING A THREE-FIFTHS VOTE OF THE BOARD TO REVERSE AN ORDER OF ANY ADMINISTRATIVE OFFICIAL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-388(a) is hereby amended by inserting after the word “members”, in line three thereof, a parenthetical clause in words as follows:

“(exclusive of additional members appointed to represent residents of the Extraterritorial Area pursuant to G.S. 160A-362)”.

Sec. 2. G.S. 160A-388(e) is hereby amended by striking from line one of said subsection the word “four” and inserting instead the word “three”.

Sec. 3. This act shall apply only to the City of Durham.

Sec. 4. This act shall be in full force and effect upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1973.

H. B. 846

CHAPTER 412

AN ACT AUTHORIZING THE GOVERNING BODY OF THE CITY OF DURHAM TO REGULATE PUBLIC OFF-STREET PARKING FACILITIES.

The General Assembly of North Carolina enacts:

Section 1. The City Council of the City of Durham may make it unlawful to park any vehicle in a publicly-owned or publicly-operated off-street parking facility without paying the established fee or charge and may ordain other regulations pertaining to the use of such facilities.

Sec. 2. This act shall apply only to the City of Durham.

Sec. 3. This act shall be in full force and effect upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1973.

H. B. 847

CHAPTER 413

AN ACT AMENDING G.S. 160A-266 BY PERMITTING THE DISPOSITION OF WRECKED OR DAMAGED PROPERTY IN SETTLEMENT OF CLAIMS INVOLVING SUCH PROPERTY WITHOUT THE NECESSITY OF ADVERTISEMENT, NEGOTIATION, SALE OR BIDS THEREON.

The General Assembly of North Carolina enacts:

Section 1. That the provisions of G.S. 160A-266 be, and the same is hereby, amended by adding at the end of said section a new subsection (c) as follows:

“(c) Nothing contained in this Article shall be construed as prohibiting the abandonment, release, or other disposition of wrecked or damaged property in settlement of claims involving damage to such property.”

Sec. 2. This act shall apply only to the City of Durham.

Sec. 3. This act shall be in full force and effect upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1973.

H. B. 848

CHAPTER 414

AN ACT AUTHORIZING THE GOVERNING BODY OF THE CITY OF DURHAM TO WAIVE ITS GOVERNMENTAL IMMUNITY TO THE EXTENT OF LIABILITY INSURANCE PURCHASED.

The General Assembly of North Carolina enacts:

Section 1. The City Council of the City of Durham is authorized and empowered, but not required, to waive its governmental immunity from liability for wrongful death or injury to person or property arising from negligent acts of its officers, agents or employees when acting within the scope of their authority or within the course of their employment. Waiver of immunity shall be accomplished by purchasing liability insurance as provided in this act, and the immunity shall be waived only to the extent of the amount of insurance so obtained and only to the extent of coverage provided by said policy of liability insurance. No affirmative action of the Council shall be required to retain immunity not waived by the purchase of insurance, and no affirmative action or resolution of the Council beyond the act of purchasing liability insurance shall be required to accomplish waiver of immunity to extent of insurance coverage.

Sec. 2. Contracts of insurance purchased pursuant to this act must be issued by insurers duly licensed and authorized to execute insurance contracts in this State, and must by their terms adequately insure the City of Durham against any and all liability for wrongful death or injury to person or property proximately caused by the negligent act of any officer, agent or employee of the City of Durham when acting within the scope of his authority or within the course of his employment. Any company entering into a contract of insurance with the City of Durham pursuant to this act thereby waives any defense based on the governmental immunity of the City.

The City of Durham is authorized to pay the lawful premiums of liability insurance policies out of the general tax revenues or other funds of the City.

Sec. 3. Any person sustaining damages, or in case of death, his personal representative, may sue the City of Durham as insured as provided in this act,

for the recovery of his damages in any court of competent jurisdiction in this State, and it shall be no defense to any such action that the negligent act alleged was in pursuance of a governmental function of the City of Durham, to the extent that the City of Durham has insurance coverage as provided in this act.

Except as expressly provided herein, nothing in this act shall be construed to deprive the City of Durham of any defense whatsoever to any action for damages, or to restrict, limit, or otherwise affect any defense that the City of Durham may have at common law or by virtue of any statute (whether general, special, private, or local); and nothing in this act shall be construed to relieve any person sustaining damages, or any personal representative of any decedent, from any duty to give notice of his claim to the City of Durham or to begin his action within the time prescribed by the applicable statute of limitations.

Sec. 4. The City of Durham may incur liability pursuant to this act only with respect to a claim arising after the City has procured liability insurance pursuant to this act and during the time that the insurance is in effect.

Sec. 5. No part of the pleadings that relates to or alleges facts as to the City of Durham's insurance against liability shall be read or mentioned in the presence of the trial jury in any action brought pursuant to this act. No liability shall attach in any case unless the plaintiff waives the right to have all issues of law or fact relating to insurance in the action determined by a jury and such issues shall be heard and determined by the judge without resort to a jury. The jury shall be absent during any motions, arguments, testimony, or announcement of findings of fact or conclusions of law with respect to insurance unless the City of Durham asks for a jury trial thereon.

No plaintiff in an action brought pursuant to this act, nor counsel, nor witness therefor, shall make any statement, ask any question, read any pleadings, or do any other act in the presence of the trial jury that indicates to any member of the jury that the City of Durham's liability would be covered by insurance. If any such act is done, the judge shall immediately order a mistrial of the action.

Sec. 6. This act shall apply only to the City of Durham.

Sec. 7. This act shall be in full force and effect upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1973.

H. B. 849

CHAPTER 415

AN ACT TO AMEND G.S. 160A-299 RELATING TO REQUIRED NOTICE BEFORE CLOSING A STREET OR ALLEY BY REQUIRING NOTICE TO BE SENT ONLY TO PERSONS OWNING PROPERTY ABUTTING THE PORTION OF STREET OR ALLEY PROPOSED TO BE CLOSED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-299(a) is hereby amended by inserting after the word "alley" in line six and before the word "as" in line six of said subsection (a) the words "in the block or portion of the street or alley proposed to be closed" so that the second full sentence in Subsection (a) shall read as follows: "The resolution shall be published once a week for four successive weeks prior to the hearing, a copy thereof shall be sent by registered or certified mail to all owners of property adjoining the street or alley in the block or portion of the street or alley proposed to be closed as shown on the County Tax Records, and a notice of

the closing and public hearing shall be prominently posted in at least two places along the street or alley.”

Sec. 2. This act shall apply only to the City of Durham.

Sec. 3. This act shall be in full force and effect upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1973.

H. B. 855

CHAPTER 416

AN ACT TO REQUIRE CERTAIN GOVERNMENTAL UNITS INCLUDING INDEPENDENT BOARDS, AGENCIES, COMMISSIONS AND AUTHORITIES IN MECKLENBURG COUNTY TO REFER ALL CAPITAL PROJECTS TO THE CHARLOTTE-MECKLENBURG PLANNING COMMISSION FOR REVIEW.

The General Assembly of North Carolina enacts:

Section 1. No governmental unit in Mecklenburg County, including independent boards, agencies, commissions, authorities, special districts and local public institutions shall authorize or construct any capital project or acquire or sell any real property until the location and extent thereof has been submitted to the Charlotte-Mecklenburg Planning Commission for its review. The Charlotte-Mecklenburg Planning Commission shall have 30 days from the date of submission to review the project or action and to make whatever response, if any, to said project or action. A longer period of review may be granted by the instrumentality making the submission.

Sec. 2. Capital project, as used in this act, shall include, but shall not be limited to streets, roads, major water and sewer extensions, parks, playgrounds, open spaces, urban renewal project areas, public transit, airports, public housing and all other government buildings and facilities such as hospitals, schools, health centers, libraries, community centers and fire stations.

Sec. 3. The provisions of this act shall not apply to the Towns of Pineville, Matthews, Davidson, Cornelius, Huntersville, and Mint Hill, or boards, agencies, commissions, authorities or institutions thereof.

Sec. 4. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1973.

H. B. 871

CHAPTER 417

AN ACT TO AMEND THE CIVIL PROCESS FEE RELATING TO EXECUTION FEES OF THE SHERIFF.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-311(a)(3) is hereby amended by adding a new sentence thereto, to read as follows:

“Whenever an execution is issued to the sheriff, and subsequently while the execution is in force and outstanding, and after the sheriff has served or attempted to serve such execution, the judgment, or any part thereof, is paid directly or indirectly to the judgment creditor, the fee herein is payable to the sheriff on the amount so paid. The judgement creditor shall be responsible for

collecting and paying all execution fees on amounts paid directly to the judgment creditor.”

Sec. 2. G.S. 7A-311(a)(1) is hereby amended by deleting the phrase “or attempted to be served,” therefrom.

Sec. 3. This act shall become effective on July 1, 1973.

In the General Assembly read three times and ratified, this the 9th day of May, 1973.

H. B. 879

CHAPTER 418

AN ACT TO PROVIDE A SUPPLEMENTAL RETIREMENT FUND FOR FIREMEN IN THE CITY OF STATESVILLE AND TO MODIFY THE APPLICATION OF G.S. 118-5, 118-6 AND 118-7 TO THE CITY OF STATESVILLE.

The General Assembly of North Carolina enacts:

Section 1. Supplemental Retirement Fund Created. The Board of Trustees of the Local Firemen's Relief Fund of the City of Statesville, as established in accordance with G.S. 118-6, hereinafter called the Board of Trustees, shall create and maintain a separate fund to be called the Statesville Firemen's Supplemental Retirement Fund, hereinafter called the Supplemental Retirement Fund, and shall maintain books of account for such fund separate from the books of account of the Firemen's Local Relief Fund of the City of Statesville, hereinafter called the Local Relief Fund. The Board of Trustees shall pay into the Supplemental Retirement Fund the funds prescribed by this act.

Sec. 2. Transfers of Funds and Disbursements. Notwithstanding the provisions of G.S. 118-7, the Board of Trustees of the Local Firemen's Relief Fund of the City of Statesville shall:

(a) prior to January 1, 1974, transfer to the Supplemental Retirement Fund all funds, including earnings on investments, of the Local Relief Fund in excess of thirty thousand dollars (\$30,000);

(b) at any time when the amount of funds in the Local Relief Fund shall, by reason of disbursements authorized by G.S. 118-7, be less than thirty thousand dollars (\$30,000), transfer from the Supplemental Retirement Fund to the Local Relief Fund an amount sufficient to maintain in the Local Relief Fund the sum of thirty thousand dollars (\$30,000);

(c) as soon as practicable after January 1 of each year, but in no event later than July 1, divide the sum of the annual funds paid to the Local Relief Fund by authority of G.S. 118-5, the income earned in the preceding calendar year upon investments of funds belonging to the Local Relief Fund and the funds belonging to the Supplemental Retirement Fund into equal shares and disburse the same as supplemental retirement benefits in accordance with Section 3 of this act.

Sec. 3. Supplemental Retirement Benefits. (a) Each City fireman, whether fully paid or volunteer, who has previously retired with 20 years or more service as a City fireman and has attained the age of 55 years, shall be entitled to and shall receive in each calendar year following the calendar year in which he retires an annual supplemental retirement benefit, provided, in no event shall any retired fireman be entitled to or receive in any year an annual benefit in excess of six hundred dollars (\$600.00).

(b) Any fireman of the City who is not otherwise entitled to supplemental

retirement benefits under subsection (a) of this section shall nevertheless be entitled to such benefits in any calendar year in which the Board of Trustees makes the following written findings of fact:

(1) that he initially retired from his position as fireman because of his inability, by reason of sickness or injury, to perform the normal duties of an active fireman; and

(2) that, within 30 days prior to or following his initial retirement as a fireman, at least two physicians licensed to practice medicine in North Carolina certified that he was at such time unable, by reason of sickness or injury, to perform the normal duties of an active fireman; and

(3) that, at the time of his initial retirement as a fireman, there was not available to him in the fire department or in any other department of the City a position of employment the normal duties of which he was capable of performing; and

(4) that, since the preceding January 1, a physician licensed to practice medicine in North Carolina has certified that he remains unable, by reason of sickness or injury, to perform the normal duties of an active fireman; provided, that the Board of Trustees, after initially making the findings of fact specified in (1) and (2) of this subsection, need not specify such findings in subsequent calendar years.

Sec. 4. Intention. It is the intention of Sections 1, 2, and 3 of this act to authorize in any calendar year the disbursement of supplemental retirement benefits only when the Firemen's Relief Fund of the City equals or exceeds thirty thousand dollars (\$30,000).

Sec. 5. Investment of Funds. The Board of Trustees is hereby authorized to invest any funds, either of the Local Relief Fund or of the Supplemental Retirement Fund, in any investment named in or authorized by G.S. 159-30, only in accordance with the provisions thereof, and is hereby directed to invest all of the funds of the Supplemental Retirement Fund in one or more of such investments.

Sec. 6. Acceptance of Gifts. The Board of Trustees is hereby authorized to accept any gift, grant, bequest, or donation of money for the use of the Supplemental Retirement Fund.

Sec. 7. Bond of Treasurer. The Board of Trustees shall bond the Treasurer of the Local Relief Fund with a good and sufficient bond, in an amount at least equal to the amount of funds in his control, payable to the Board of Trustees, and conditioned upon the faithful performance of his duties; such bond shall be in lieu of the bond required by G.S. 118-6. The Board of Trustees shall pay from the Local Relief Fund the premiums of the bond of the Treasurer.

Sec. 8. If any provision of this act shall be declared invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions hereof which can be given effect without the invalid provision, and to this end the provisions of this act are declared to be severable.

Sec. 9. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 10. This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1973.

H. B. 1095

CHAPTER 423

AN ACT AMENDING CHAPTER 520 OF THE 1971 SESSION LAWS RELATING TO HUNTING WITH RIFLES IN HYDE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 520, Session Laws of 1971, is amended by adding a Section 2 1/2 thereto as follows:

“Sec. 2 1/2. The provisions of this act shall be enforced by the Wildlife Protectors of the North Carolina Wildlife Commission.”

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1973.

H. B. 1171

CHAPTER 424

AN ACT TO AMEND CHAPTER 126 OF THE 1963 SESSION LAWS TO PROVIDE THAT MEMBERS OF THE HAYWOOD COUNTY BOARD OF EDUCATION SHALL TAKE OFFICE ON THE FIRST MONDAY IN DECEMBER FOLLOWING THEIR ELECTION.

The General Assembly of North Carolina enacts:

Section 1. Section 4 of Chapter 126 of the 1963 Session Laws is hereby amended by deleting from lines 43 and 44 thereof the words “April following the year in which the general election is” and inserting in lieu thereof the words “December following the general election”.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1973.

H. B. 1218

CHAPTER 425

AN ACT TO AMEND CHAPTER 2, PRIVATE LAWS OF 1925, TO PROVIDE FOR THE ELECTION AND TERM OF OFFICE OF THE MAYOR AND GOVERNING BODY OF THE TOWN OF FOREST CITY.

The General Assembly of North Carolina enacts:

Section 1. Subject to approval of the voters as provided in Section 2 of this Act, Chapter 2, Private Laws of 1925 is hereby amended by rewriting the first paragraph of Section 5 thereof to read as follows:

“Sec. 5. Officers—(a) The Town of Forest City shall be governed by a mayor and a Board of Councilmen composed of five members who shall be elected as provided herein. The mayor shall serve for a term of four years, and members of the Board of Councilmen shall serve staggered terms of four years.

(b) Beginning with the regular municipal election to be held in November, 1973, the mayor shall be elected for a term of two years. The three candidates for councilmen receiving the highest number of votes shall be elected for terms of four years, and the two candidates for councilmen receiving the next highest number of votes shall be elected for terms of two years. Thereafter, as the terms of mayor and councilmen expire, their successors shall be elected for terms of four years.

(c) Elections in the Town of Forest City shall be held and conducted in

accordance with the applicable provisions of Articles 23 and 24 of Chapter 163 of the General Statutes relating to municipal elections.”

Sec. 2. The Board of Elections responsible for conducting elections in the Town of Forest City, shall at the regular municipal election to be held in November, 1973, hold and conduct a special election to determine whether the mayor and members of the Board of Councilmen shall be elected for terms as specified in Section 1 of this Act. The special election shall be conducted in accordance with the laws and regulations applicable to elections in the Town. No new registration of voters shall be required. The Board of Elections shall cause notice of the special election to be published in a newspaper having general circulation in the Town, at least once 15 days before the registration records close prior to the election. The issue on the ballot shall be as follows:

“FOR: Four-year term for mayor and four-year staggered terms for councilmen.

AGAINST: Four-year term for mayor and four-year staggered terms for councilmen.

Sec. 3. If a majority of the votes cast shall be in favor of a four-year term for mayor and four-year staggered terms for councilmen, then Section 1 of this Act shall become effective upon the certification of the results of the election. If a majority of the votes be “AGAINST: Four-year term for mayor and four-year staggered terms for councilmen”, then this act shall be null and void and Section 1 shall have no effect.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1973.

H. B. 334

CHAPTER 426

AN ACT TO CORRECT OMISSIONS, TECHNICAL ERRORS, AND INTERNAL INCONSISTENCIES IN CHAPTER 160A OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. All references in this act to portions of Chapter 160A of the General Statutes refer to Chapter 160A as it appears in the 1972 Replacement Volume 3D.

Sec. 2. G.S. 160A-5 is amended by striking out the word “clearly” in the fifth line and inserting in its place the word “nearly.” G.S. 160A-5 is further amended in line three by placing a comma after the words “local act” and inserting “or any city ordinance, resolution, or order.”

Sec. 3. The first subparagraph of G.S. 160A-1 (definition of “Chapter”) is amended by striking out “Article 6” and inserting in its place “Article 5.”

Sec. 4. Subparagraph (3) of G.S. 160A-7 is amended by striking out “G.S. 160-291” and inserting in its place “G.S. 160A-101.”

Sec. 5. G.S. 160A-9.2(4) is rewritten to read as follows:

“(4) That no portion of the area lies within one mile of the corporate limits of any other city having a population of 5,000 or more according to the most recent decennial census of population taken by order of Congress, or within three miles of the corporate limits of any other city having a population of 10,000 or more according to the most recent decennial census of population taken by order of Congress, or within five miles of the corporate limits of any other city having a

H. B. 1095

CHAPTER 423

AN ACT AMENDING CHAPTER 520 OF THE 1971 SESSION LAWS RELATING TO HUNTING WITH RIFLES IN HYDE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 520, Session Laws of 1971, is amended by adding a Section 2 1/2 thereto as follows:

"Sec. 2 1/2. The provisions of this act shall be enforced by the Wildlife Protectors of the North Carolina Wildlife Commission."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1973.

H. B. 1171

CHAPTER 424

AN ACT TO AMEND CHAPTER 126 OF THE 1963 SESSION LAWS TO PROVIDE THAT MEMBERS OF THE HAYWOOD COUNTY BOARD OF EDUCATION SHALL TAKE OFFICE ON THE FIRST MONDAY IN DECEMBER FOLLOWING THEIR ELECTION.

The General Assembly of North Carolina enacts:

Section 1. Section 4 of Chapter 126 of the 1963 Session Laws is hereby amended by deleting from lines 43 and 44 thereof the words "April following the year in which the general election is" and inserting in lieu thereof the words "December following the general election".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1973.

H. B. 1218

CHAPTER 425

AN ACT TO AMEND CHAPTER 2, PRIVATE LAWS OF 1925, TO PROVIDE FOR THE ELECTION AND TERM OF OFFICE OF THE MAYOR AND GOVERNING BODY OF THE TOWN OF FOREST CITY.

The General Assembly of North Carolina enacts:

Section 1. Subject to approval of the voters as provided in Section 2 of this Act, Chapter 2, Private Laws of 1925 is hereby amended by rewriting the first paragraph of Section 5 thereof to read as follows:

"Sec. 5. Officers—(a) The Town of Forest City shall be governed by a mayor and a Board of Councilmen composed of five members who shall be elected as provided herein. The mayor shall serve for a term of four years, and members of the Board of Councilmen shall serve staggered terms of four years.

(b) Beginning with the regular municipal election to be held in November, 1973, the mayor shall be elected for a term of two years. The three candidates for councilmen receiving the highest number of votes shall be elected for terms of four years, and the two candidates for councilmen receiving the next highest number of votes shall be elected for terms of two years. Thereafter, as the terms of mayor and councilmen expire, their successors shall be elected for terms of four years.

(c) Elections in the Town of Forest City shall be held and conducted in

accordance with the applicable provisions of Articles 23 and 24 of Chapter 163 of the General Statutes relating to municipal elections.”

Sec. 2. The Board of Elections responsible for conducting elections in the Town of Forest City, shall at the regular municipal election to be held in November, 1973, hold and conduct a special election to determine whether the mayor and members of the Board of Councilmen shall be elected for terms as specified in Section 1 of this Act. The special election shall be conducted in accordance with the laws and regulations applicable to elections in the Town. No new registration of voters shall be required. The Board of Elections shall cause notice of the special election to be published in a newspaper having general circulation in the Town, at least once 15 days before the registration records close prior to the election. The issue on the ballot shall be as follows:

“FOR: Four-year term for mayor and four-year staggered terms for councilmen.

AGAINST: Four-year term for mayor and four-year staggered terms for councilmen.

Sec. 3. If a majority of the votes cast shall be in favor of a four-year term for mayor and four-year staggered terms for councilmen, then Section 1 of this Act shall become effective upon the certification of the results of the election. If a majority of the votes be “AGAINST: Four-year term for mayor and four-year staggered terms for councilmen”, then this act shall be null and void and Section 1 shall have no effect.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1973.

H. B. 334

CHAPTER 426

AN ACT TO CORRECT OMISSIONS, TECHNICAL ERRORS, AND INTERNAL INCONSISTENCIES IN CHAPTER 160A OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. All references in this act to portions of Chapter 160A of the General Statutes refer to Chapter 160A as it appears in the 1972 Replacement Volume 3D.

Sec. 2. G.S. 160A-5 is amended by striking out the word “clearly” in the fifth line and inserting in its place the word “nearly.” G.S. 160A-5 is further amended in line three by placing a comma after the words “local act” and inserting “or any city ordinance, resolution, or order.”

Sec. 3. The first subparagraph of G.S. 160A-1 (definition of “Chapter”) is amended by striking out “Article 6” and inserting in its place “Article 5.”

Sec. 4. Subparagraph (3) of G.S. 160A-7 is amended by striking out “G.S. 160-291” and inserting in its place “G.S. 160A-101.”

Sec. 5. G.S. 160A-9.2(4) is rewritten to read as follows:

“(4) That no portion of the area lies within one mile of the corporate limits of any other city having a population of 5,000 or more according to the most recent decennial census of population taken by order of Congress, or within three miles of the corporate limits of any other city having a population of 10,000 or more according to the most recent decennial census of population taken by order of Congress, or within five miles of the corporate limits of any other city having a

population of 50,000 or more according to the most recent decennial census of population taken by order of Congress.”

G.S. 160A-9.2 is further amended by inserting a new unnumbered paragraph at the end thereof as follows:

“If the area does not meet all of the criteria set out in this section, the Board may not incorporate it as a city.”

Sec. 6. Subparagraph (3) of G.S. 160A-9.4 is rewritten to read as follows:

“(3) The composition and mode of election of the governing body within the optional forms set out in G.S. 160A-101.”

G.S. 160A-9.4 is further amended by inserting a new unnumbered paragraph at the end thereof as follows:

“In fixing the date of the first regular municipal election, the Board is not bound by G.S. 163-279, but all subsequent elections in the newly incorporated city shall be conducted in accordance with Subchapter IX of Chapter 163 of the General Statutes.”

Sec. 7. G.S. 160A-11 is amended by deleting from the second line the word “former.”

Sec. 8. G.S. 160A-17.1 is amended by striking out the word “municipality” wherever it appears and inserting in its place the words “city or county.”

G.S. 160A-17.1 is further amended by striking out the words “general or local law” in the first unnumbered paragraph and inserting in their place the words “general law or local act.”

G.S. 160A-17.1 is further amended by striking out the third unnumbered paragraph.

Sec. 9. Chapter 160A of the General Statutes is amended by inserting a new section in Article 3 thereof as follows:

“§ 160A-19. *Leases.*—A city is authorized to lease as lessee, with or without option to purchase, any real or personal property for any authorized public purpose. A lease of personal property with an option to purchase is subject to Article 8 of Chapter 143 of the General Statutes.”

Sec. 10. G.S. 160A-22 is amended in line two by inserting the word “or” after the comma following the word “map.”

G.S. 160A-22 is further amended by rewriting the last two sentences to read as follows: “The council may provide for revisions in any map or other description of the city boundaries. A revised map or description shall supersede for all purposes the earlier map or description that it is designated to replace.”

Sec. 11. G.S. 160A-63 is amended by inserting a new paragraph at the end thereof as follows:

“In cities whose elections are conducted on a partisan basis, a person appointed to fill a vacancy in an elective office shall be a member of the same political party as the person whom he replaces if that person was elected as the nominee of a political party.”

Sec. 12. G.S. 160A-64(a) is rewritten to read as follows:

“(a) The council may fix its own compensation and the compensation of the mayor and any other elected officers of the city by publication in and adoption of the annual budget ordinance, but the salary of an elected officer other than a member of the council may not be reduced during the then current term of office unless he agrees thereto. The mayor, councilmen, and other elected officers are entitled to reimbursement for actual expenses incurred in the course

of performing their official duties at rates not in excess of those allowed to other city officers and employees.”

Sec. 13. G.S. 160A-68 is amended in line two by inserting after the words “shall be” the words “held on the date and at the time of.”

Sec. 14. G.S. 160A-71(a) is rewritten to read as follows:

“(a) The council shall fix the time and place for its regular meetings. If no action has been taken fixing the time and place for regular meetings, a regular meeting shall be held at least once a month at 10:00 a.m. on the first Monday of the month.”

Sec. 15. The second sentence of G.S. 160A-72 is rewritten to read as follows: “The results of each vote shall be recorded in the minutes, and upon the request of any member of the council, the ayes and noes upon any question shall be taken.”

Sec. 16. The first unnumbered paragraph of G.S. 160A-75 is amended by inserting the following at the end thereof: “The question of the compensation and allowances of members of the council is not a matter involving a member's own financial interest or official conduct.”

Sec. 17. G.S. 160A-76(b) is amended in the third line by changing the comma after “G.S. 143-138(e)” to a period, and by capitalizing the following word “A.”

Sec. 18. G.S. 160A-79(a) is rewritten to read as follows:

“(a) In all civil and criminal cases a city ordinance that has been codified in a code of ordinances adopted and issued in compliance with G.S. 160A-77 must be pleaded by both section number and caption. In all civil and criminal cases a city ordinance that has not been codified in a code of ordinances adopted and issued in compliance with G.S. 160A-77 must be pleaded by its caption. In both instances, it is not necessary to plead or allege the substance or effect of the ordinance unless the ordinance has no caption and has not been codified.”

G.S. 160A-79(b)(1) is amended by striking out the words “pursuant to G.S. 160A-77.”

Sec. 19. G.S. 160A-101(6) is amended by inserting the words “single-member” before the words “electoral district” wherever they appear therein.

G.S. 160A-101 is amended by rewriting paragraph (4) to read as follows:

“(4) Terms of office of members of the council:

Members of the council shall serve terms of office of either two or four years. All of the terms need not be of the same length, and all of the terms need not expire in the same year.”

G.S. 160A-101(8) is amended by inserting a new unnumbered paragraph therein as follows:

“Under option a., the mayor may be given the right to vote on all matters before the council, or he may be limited to voting only to break a tie. Under option b., the mayor has the right to vote on all matters before the council. In both cases the mayor has no right to break a tie vote in which he participated.”

Sec. 20. The last unnumbered paragraph of G.S. 160A-102 is amended by striking out “G.S. 160A-128” and inserting in its place “G.S. 160A-104.”

The second sentence of the third unnumbered paragraph of G.S. 160A-102 is amended by striking out “20” and inserting in its place “30.”

Sec. 21. The fifth sentence of G.S. 160A-104 is rewritten to read as follows: “Upon receipt of a valid initiative petition, the council shall call a special election on the question of adopting the charter amendments proposed

therein, and shall give public notice thereof not less than 30 days before the last day on which voters may register to vote in the special election."

Sec. 22. G.S. 160A-148(1) is amended by striking out the words "city employees" and inserting in their place the words "city officers and employees not elected by the people, and whose appointment or removal is not otherwise provided for by law,".

Sec. 23. G.S. 160A-167 is amended by inserting after the word "city" wherever it appears the words "or county."

Sec. 24. G.S. 160A-176 is rewritten to read as follows:

"§ 160A-176. *Ordinances effective on city property outside limits.*—Any city ordinance may be made effective on and to property and rights-of-way belonging to the city and located outside the corporate limits."

Sec. 25. G.S. 160A-184 is amended by striking out the word "loud" in the body of the section and by revising the caption to read "*Noise regulation.*"

Sec. 26. G.S. 160A-185 is rewritten to read as follows:

"§ 160A-185. *Emission of pollutants or contaminants.*—A city may by ordinance regulate, restrict, or prohibit the emission or disposal of substances or effluents that tend to pollute or contaminate land, water, or air, rendering or tending to render it injurious to human health or welfare, to animal or plant life or to property, or interfering or tending to interfere with the enjoyment of life or property. Any such ordinance shall be consistent with and supplementary to State and federal laws and regulations."

Sec. 27. G.S. 160A-191 is amended by striking out "G.S. 18-107" and inserting in its place "G.S. 18A-33(b)."

Sec. 28. Chapter 160A of the General Statutes is amended by inserting a new section in Article 8 thereof as follows:

"§ 160A-195. *Regulating speed of trains.*—A city may by ordinance regulate the speed at which railroad trains may be operated within the corporate limits."

Sec. 29. G.S. 160A-207 is amended by striking out "(G.S. 105-271 to 105-395)."

Sec. 30. G.S. 160A-208 is amended by striking out "(G.S. 105-271 to 105-395)."

Sec. 31. G.S. 160A-209 is amended by striking out "(G.S. 105-271 to 105-395)."

Sec. 32. G.S. 160A-214 is amended by striking out "160A-320" and inserting in its place "160A-319."

Sec. 33. G.S. 160A-217 is amended in the first sentence by striking out "street and sidewalk" and inserting in its place "street or sidewalk."

Sec. 34. The fifth sentence of G.S. 160A-228 is rewritten to read as follows: "From and after the time of confirmation, the assessments shall be a lien on the property assessed of the same nature and to the same extent as the lien for county and city property taxes, according to the priorities set out in G.S. 160A-233(c)."

Sec. 35. Article 10 of Chapter 160A of the General Statutes is amended by inserting a new section therein as follows:

"§ 160A-237. *Authority to hold water and sewer assessments in abeyance.*—The assessment resolution may provide that assessments levied under this article for water or sewer improvements be held in abeyance without interest until improvements on the assessed property are actually connected to the water or sewer system for which the assessment was levied, or a date certain not more

than 10 years from the date of confirmation of the assessment roll, whichever event first occurs. Upon termination of the period of abeyance, the assessment shall be paid in accordance with the terms set out in the assessment resolution. If assessments are to be held in abeyance, the assessment resolution shall classify the property assessed according to general land use, location with respect to the water or sewer system, or other relevant factors, and shall provide that the period of abeyance shall be the same for all assessed property in the same class.

All statutes of limitations are suspended during the time that any assessment is held in abeyance without interest."

Sec. 36. G.S. 160A-241 is amended in the fourth line by striking out "necessary or useful" and by inserting the words and punctuation ", either inside or outside the corporate limits,."

Sec. 37. G.S. 160A-243.1 is rewritten to read as follows:

"§ 160A-243.1. *Costs in unsuccessful condemnation actions and in inverse condemnation actions.*—If a city or an agency, board, or commission of a city institutes an action to acquire by condemnation any interest in real property and (i) if the final judgment in the action is that the city or the agency, board, or commission is not authorized to condemn the property, or (ii) if the city or agency, board, or commission abandons the action, the court with jurisdiction over the action shall award each owner of the property sought to be condemned a sum that, in the opinion of the court, will reimburse the owner for his reasonable costs, disbursements, and expenses (including reasonable attorney, appraisal, and engineering fees) incurred because of the action.

If an action is brought against a city or an agency, board or commission of a city seeking compensation for the taking of any interest in property by the city or agency, board or commission and judgment is for the plaintiff, the court shall award to the plaintiff as a part of the judgment a sum that, in the opinion of the court, will reimburse the plaintiff for his reasonable costs, disbursements, and expenses (including reasonable attorney, appraisal, and engineering fees) incurred because of the action."

Sec. 38. G.S. 160A-247 is rewritten to read as follows:

"§ 160A-247. *Preliminary condemnation resolution served on owners and recorded.*—A copy of the preliminary condemnation resolution, and any amendments thereto, shall be served on all persons named as owners or parties therein. The original resolution, and any amendments to the description of the land or easement to be acquired or adding, deleting, substituting, or correcting the names of the owners of the property, shall be recorded in the office of the register of deeds of the county or counties in which the land affected thereby lies. The register of deeds shall record and index the resolution (and any amendments thereto required to be recorded) in the same manner as a deed of trust affecting the property, with the owners named therein treated as the grantor under a deed of trust. If the city abandons condemnation proceedings after the resolution has been recorded, the register of deeds shall cancel it in the same manner as a deed of trust is canceled upon presentation to him of a certified copy of the resolution of the city council abandoning the proceedings."

Sec. 39. G.S. 160A-252(9) is amended by striking out "45 days" and inserting in its place "30 days."

Sec. 40. G.S. 160A-255 is amended by striking out "10 days" and inserting in its place "30 days."

Sec. 41. G.S. 160A-258 is amended in the seventh line by placing a

comma after the word "compensation."

Sec. 42. G.S. 160A-262 is repealed.

Sec. 42.1. G.S. 160A-266 is rewritten to read as follows:

"§ 160A-266. *Methods of sale; limitation.*—(a) Subject to the limitations prescribed in subsection (b) of this section, and according to the procedures prescribed in this Article, a city may dispose of real or personal property belonging to the city by:

- (1) Private negotiation and sale;
- (2) Advertisement for sealed bids;
- (3) Negotiated offer, advertisement, and upset bid;
- (4) Public auction; or
- (5) Exchange.

(b) Private negotiation and sale may be used only with respect to personal property valued at less than five thousand dollars (\$5,000) for any one item or group of similar items. Real property and personal property valued at five thousand dollars (\$5,000) or more for any one item or group of similar items may be sold by any method permitted by this Article other than private negotiation and sale, or may be exchanged as permitted by G.S. 160A-271."

The first sentence of G.S. 160A-271 is amended by inserting the words "or personal" after the word "real".

G.S. 160A-271 is further amended by inserting a new sentence to follow the first sentence as follows: "A city may also exchange facilities of a city-owned enterprise for like facilities located within or outside the corporate limits."

Sec. 43. G.S. 160A-270 is rewritten to read as follows:

"§ 160A-270. *Public auction.*—(a) Real Property. When it is proposed to sell real property at public auction, the council shall first adopt a resolution authorizing the sale, describing the property to be sold, specifying the date, time, place, and terms of sale, and stating that any offer or bid must be accepted and confirmed by the council before the sale will be effective. The resolution may, but need not, require the highest bidder at the sale to make a bid deposit in a specified amount. The council shall then publish a notice of the sale at least once and not less than 30 days before the sale. The notice shall contain a general description of the land sufficient to identify it, the terms of the sale, and a reference to the authorizing resolution. After bids have been received, the highest bid shall be reported to the council, and the council shall accept or reject it within 30 days thereafter. If the bid is rejected, the council may readvertise the property for sale.

(b) Personal Property. When it is proposed to sell personal property at public auction, the council shall at a regular council meeting adopt a resolution or order authorizing an appropriate city official to dispose of the property at public auction. The resolution or order shall identify the property to be sold and set out the date, time, place, and terms of the sale. The resolution or order (or a notice summarizing its contents) shall be published at least once and not less than 10 days before the date of the auction."

Sec. 44. Article 12 of Chapter 160A of the General Statutes is amended by inserting therein a new section as follows:

"§ 160A-276. *Sale of stocks, bonds, and other securities.*—A city may sell through a broker without complying with the preceding sections of this article shares of common and preferred stock, bonds, options, and warrants or other rights with respect to stocks and bonds, and other securities, when the stock,

bond, or other right or security has an established market and is traded in the usual course of business on a national stock exchange or over-the-counter by reputable brokers and securities dealers. The city may pay the usual fees and taxes incident to such transactions. Nothing in this section authorizes a city to deal in its own bonds in any manner inconsistent with Chapter 159 of the General Statutes, nor to invest in any securities not authorized by G.S. 159-30."

Sec. 45. G.S. 160A-281 is amended by striking out the words "if the council shall permit" and inserting in their place "unless the council provides otherwise."

Sec. 46. The first paragraph of G.S. 160A-286 is amended by changing the period at the end to a comma, and inserting the following: "and on all property owned by or leased to the city wherever located."

Sec. 47. G.S. 160A-299 is amended by inserting a new subdivision therein as follows:

"(e) No street or alley under the control of the State Highway Commission may be closed unless the Commission consents thereto."

Sec. 48. G.S. 160A-301 is rewritten to read as follows:

"§ 160A-301. *Parking.*—(a) *On-Street Parking.* A city may by ordinance regulate, restrict, and prohibit the parking of vehicles on the public streets, alleys, and bridges within the city. When parking is permitted for a specified period of time at a particular location, a city may install a parking meter at that location and require any person parking a vehicle therein to place the meter in operation for the entire time that the vehicle remains in that location, up to the maximum time allowed for parking there. Parking meters may be activated by coins or tokens. Proceeds from the use of parking meters on public streets must be used to defray the cost of enforcing and administering traffic and parking ordinances and regulations.

(b) *Off-Street Parking.* A city may by ordinance regulate the use of lots, garages, or other facilities owned or leased by the city and designated for use by the public as parking facilities. The city may impose fees and charges for the use of these facilities, and may provide for the collection of these fees and charges through parking meters, attendants, automatic gates, or any other feasible means. The city may make it unlawful to park any vehicle in an off-street parking facility without paying the established fee or charge and may ordain other regulations pertaining to the use of such facilities.

Revenues realized from off-street parking facilities may be pledged to amortize bonds issued to finance such facilities, or used for any other public purpose.

(c) Nothing contained in Public Laws 1921, Chapter 2, Section 29, or Public Laws 1937, Chapter 407, Section 61, shall be construed to affect the validity of a parking meter ordinance or the revenues realized therefrom."

Sec. 49. G.S. 160A-302.1 is amended by striking out the word "municipality" wherever it appears and inserting in its place the word "city."

Sec. 50. G.S. 160A-303 is amended by striking out the words and figures "fifty dollars (\$50.00)" wherever they appear and inserting in their place the words and figures "one hundred dollars (\$100.00)."

G.S. 160A-303(c) is amended by inserting a new sentence at the end thereof as follows: "Notice need not be given to the registered owner of the

vehicle when it does not display a license plate and the vehicle identification numbers have been removed or defaced so as to be illegible.”

G.S. 160A-303 is further amended by inserting a new subdivision (f) therein as follows:

“(f) Subsections (d) and (e) of this section do not apply when the vehicle does not display a license plate and the vehicle identification numbers have been removed or defaced so as to be illegible. Such vehicles may be destroyed or sold at private sale (without regard to value) after being held for 48 hours.

G.S. 160A-303 is further amended by renumbering the last two paragraphs thereof as paragraphs (g) and (h) respectively.

G.S. 160A-303(d) is amended by striking out from the third, fourth, and fifth lines the words and punctuation “the city shall have it appraised by two disinterested dealers or garagemen, and if the appraisal is less than fifty dollars (\$50.00),”.

Sec. 51. The second sentence of G.S. 160A-312 is rewritten to read as follows: “Subject to Part 2 of this article, a city may acquire, construct, establish, enlarge, improve, maintain, own, and operate any public enterprise outside its corporate limits, within reasonable limitations, but in no case shall a city be held liable for damages to those outside the corporate limits for failure to furnish any public enterprise service.”

Sec. 52. G.S. 160A-331(5) is amended by striking out the word “customers” in the second line and inserting in its place the word “consumers.”

Sec. 53. G.S. 160A-333 is amended by striking out the word “services” in line eight and inserting in its place the word “service.”

Sec. 54. G.S. 160A-334 is rewritten to read as follows:

“§ 160A-334. *Authority and jurisdiction of Utilities Commission.*—Notwithstanding G.S. 160A-332 and 160A-333, if the North Carolina Utilities Commission finds that service being furnished to or to be furnished to the consumer by a secondary supplier is or will be inadequate or undependable, or that rates, conditions of service or service regulations, applied to such consumer, are unreasonably discriminatory, the Commission shall have the authority and jurisdiction, after notice to each affected electric supplier, and after hearing, if a hearing is requested by an interested party, to:

(1) Order a primary supplier that is subject to the jurisdiction of the Commission to furnish electric service to any consumer who desires service from the primary supplier at any premises served by a secondary supplier, or at premises which a secondary supplier has the right to serve pursuant to other sections of this part, and to order such secondary supplier to cease and desist from furnishing electric service to such premises, or

(2) Order any secondary supplier to cease and desist from furnishing electric service to any premises being served by it or to any premises which it has the right to serve pursuant to other sections of this part, if the consumer desires service from a primary supplier that is not subject to the jurisdiction of the Commission and which is willing to furnish service to such premises.”

Sec. 55. The third subparagraph of G.S. 160A-353 is rewritten to read as follows:

“(3) Acquire real property, either within or without the corporate limits of the city or the boundaries of the county, including water and air rights, for parks

and recreation programs and facilities by gift, grant, purchase, lease, exercise of the power of eminent domain, or any other lawful method.”

Sec. 56. G.S. 160A-360(f) is rewritten to read as follows:

“(f) When a city annexes, or a new city is incorporated in, or a city extends its jurisdiction to include, an area that is currently being regulated by the county, the county regulations and powers of enforcement shall remain in effect until (i) the city has adopted such regulations, or (ii) a period of 60 days has elapsed following the annexation or incorporation, whichever is sooner. During this period the city may hold hearings and take any other measures that may be required in order to adopt its regulations for the area.”

Sec. 57. The first and second lines of the second unnumbered paragraph of G.S. 160A-361 is rewritten to read as follows: “An agency created or designated pursuant to this section may include one or more of the following, with such staff as the council may deem appropriate.”

Sec. 58. The last sentence of G.S. 160A-364 is repealed.

Sec. 59. The third unnumbered paragraph of G.S. 160A-372 is rewritten to read as follows:

“The ordinance may provide for the reservation of school sites in accordance with comprehensive land use plans approved by the council or the planning agency. In order for this authorization to become effective, before approving such plans the council or planning agency and the board of education with jurisdiction over the area shall jointly determine the specific location and size of any school sites to be reserved, which information shall appear in the comprehensive land use plan. Whenever a subdivision is submitted for approval which includes part or all of a school site to be reserved under the plan, the council or planning agency shall immediately notify the board of education and the board shall promptly decide whether it still wishes the site to be reserved. If the board of education does not wish to reserve the site, it shall so notify the council or planning agency and no site shall be reserved. If the board does wish to reserve the site, the subdivision shall not be approved without such reservation. The board of education shall then have 18 months beginning on the date of final approval of the subdivision within which to acquire the site by purchase or by initiating condemnation proceedings. If the board of education has not purchased or begun proceedings to condemn the site within 18 months, the subdivider may treat the land as freed of the reservation.”

Sec. 60. G.S. 160A-373, 160A-382, 160A-397, 160A-398, 160A-406, 160A-441, 160A-442, 160A-444, 160A-445, and 160A-448 are each amended by striking the word “Article” each time it appears in the sections and inserting in lieu thereof the word “Part”. G.S. 160A-387 is amended by striking the word “Article” the first time it appears and inserting in lieu thereof the word “Part”.

Sec. 61. G.S. 160A-376 is amended in the third line by striking out the comma after the word “sale,” and in the fourth line by striking out the word “division” and inserting in its place the word “divisions.”

Sec. 62. (a) G.S. 157A-2 is rewritten to read as follows:

“§ 157A-2. *Appointment or designation of historic properties commission.*—Before it may exercise the powers set forth in this part, a city or county shall establish or designate a historic properties commission. The city or county governing board shall determine the number of members of the commission, which shall be at least three, and the length of their terms, which shall be no greater than four years. A majority of the members of such a commission shall

have demonstrated special interest, experience, or education in history or architecture; and all the members shall reside within the territorial jurisdiction of the city or county as established pursuant to G.S. 160A-360. In establishing such a commission and making appointments to it, a city or county may seek the advice of any State or local historical agency, society, or organization.

In lieu of establishing a separate historic properties commission, a city or county may designate as its historic properties commission either (i) the city or county historic districts commission, established pursuant to G.S. 160A-396, or (ii) the city or county planning board. In order for the planning board to be designated, at least two of its members shall have demonstrated special interest, experience, or education in history or architecture.

A county and one or more cities in the county may establish or designate a joint historic properties commission. If a joint commission is established or designated, the county and city or cities involved shall determine the residence requirements for members of the joint historic properties commission."

(b) G.S. 160A-396 is rewritten to read as follows:

"§ 160A-396. *Historic district commission.*—Before it may designate one or more historic districts, a municipality shall establish or designate a historic district commission. The municipal governing board shall determine the number of members of the commission, which shall be at least three, and the length of their terms, which shall be no greater than four years. A majority of the members of such a commission shall have demonstrated special interest, experience, or education in history or architecture; and all the members shall reside within the territorial jurisdiction of the municipality as established pursuant to G.S. 160A-360.

In lieu of establishing a separate historic district commission, a municipality may designate as its historic district commission, either (i) the municipal historic properties commission, established pursuant to G.S. 160A-399.2, or (ii) the municipal planning board. In order for the planning board to be designated, at least two of its members shall have demonstrated special interest, experience, or education in history or architecture.

A county and one or more cities in the county may establish or designate a joint historic district commission. If a joint commission is established or designated, the county and city and cities involved shall determine the residence requirements of members of the joint historic district commission."

(c) G.S. Chapter 157A, as amended by this section, is reenacted and transferred to G.S. Chapter 160A, Article 19, as a new Part 3B, G.S. 160A-399.1 through 160A-399.13.

Sec. 63. G.S. 160A-451 is amended by adding a second paragraph thereto to read as follows:

"A county and one or more cities in the county may establish a joint appearance commission. If a joint commission is established, the county and the city or cities involved shall determine the residence requirements for members of the joint commission."

Sec. 64. G.S. 160A-413 is amended by deleting the period at the end of the third unnumbered paragraph and inserting the following: "in the manner provided in G.S. 160A-360(g)."

Sec. 65. G.S. 160A-417 is amended by rewriting the sentence beginning on the twentieth line to read as follows: "When any provision of the General

Statutes of North Carolina or of any ordinance requires that work be done by a licensed specialty contractor of any kind, no permit for the work shall be issued unless the work is to be performed by such a duly licensed contractor."

Sec. 66. The second sentence of G.S. 160A-423 is rewritten to read as follows: "No new building or part thereof may be occupied, and no addition or enlargement of an existing building may be occupied, and no existing building that has been altered or moved may be occupied, until the inspection department has issued a certificate of compliance."

Sec. 67. The last sentence of G.S. 160A-425 is rewritten to read as follows: "The owner or occupant shall each immediately remedy the defects, hazardous conditions, or violations of law in the property he owns."

Sec. 68. G.S. 160A-429 is amended in the third line by inserting "a" between the words "in" and "condition".

Sec. 69. The last two sentences of G.S. 160A-430 are rewritten to read as follows: "In the absence of an appeal, the order of the inspector shall be final. The city council shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order."

Sec. 70. G.S. 160A-443(3) is amended in subparagraphs a. and b. by striking the word "cost" which appears within a parenthetical in each subparagraph and inserting in lieu thereof the word "value".

Sec. 71. G.S. 160A-470 is amended by inserting the following at the end thereof: "For the purposes of this part, 'unit of local government' means a county, city, or consolidated city-county."

Sec. 72. The second sentence of G.S. 160A-471 is amended by striking out the word "unanimous" and inserting in its place the words "a majority".

Sec. 73. G.S. 160A-476 is rewritten to read as follows:

"§ 160A-476. *Fiscal affairs.*—Each unit of local government having membership in a regional council may appropriate funds to the council from any legally available revenues. Services of personnel, use of equipment and office space, and other services may be made available to the council by its member governments as a part of their financial support."

Sec. 73.1. A new section, numbered G.S. 160A-493 is added to G.S. Chapter 160A to read as follows:

"§ 160A-493. *Animal Shelters.*—A city may establish, equip, operate, and maintain an animal shelter or may contribute to the support of an animal shelter, and for these purposes may appropriate funds not otherwise limited as to use by law."

Sec. 74. Subchapter VI of Chapter 160 of the General Statutes, comprising G.S. 160-445 through 160-453.24, is reenacted and transferred to G.S. Chapter 160A as G.S. 160A-24 through 160A-56. Part 1 of Chapter 160, Subchapter VI, Article 36, is redesignated as Chapter 160A, Article 4, Part 2, Extension by Referendum or Petition. Part 2 of Chapter 160, Subchapter VI, Article 36, is redesignated as Chapter 160A, Article 4, Part 3, Annexation by Cities of Less than 5,000. Part 3 of Chapter 169, Subchapter VI, Article 36, is redesignated as Chapter 160A, Article 4, Part 4, Annexation by Cities of 5,000 or more. All internal references in Chapter 160, Subchapter VI, are amended to conform to the transfer, renumbering, and redesignations effected by this section.

Sec. 75. Subchapter VII of Chapter 160 of the General Statutes, is reenacted and transferred to G.S. Chapter 160A as a new Article 22, and

renumbered G.S. 160A-500 through 160A-527. All internal references in Chapter 160, Subchapter VII, are amended to conform to the transfer and renumbering effected by this section.

Sec. 76. When the next replacement volume is issued for Volume 3D of the General Statutes, the Revisor of Statutes is authorized to redesignate all of Chapter 160A as Chapter 160.

Sec. 77. Section 73 of this act shall become effective on July 1, 1973. All other sections of this act become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of May, 1973.

H. B. 724

CHAPTER 427

AN ACT TO PROVIDE FOR VOLUNTARY ANNEXATION BY THE CITY OF JACKSONVILLE OF AREAS, TERRITORIES OR SUBDIVISIONS NOT CONTIGUOUS TO THE MUNICIPAL BOUNDARIES OF THE CITY OF JACKSONVILLE.

Whereas, Article 36 of Chapter 160 of the General Statutes of North Carolina contains no provision for the annexing of areas, territories or subdivisions not contiguous to the municipal boundaries of the City of Jacksonville; and

Whereas, it would be in the interest of the public health, safety and welfare of the inhabitants of said City and would permit a more orderly growth of the municipal boundaries of said City to allow the annexation of noncontiguous areas, territories or subdivisions by petition of the property owners who desire that their property be annexed; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. That the owner or owners of any area, territory or subdivision within the boundaries of Onslow County but not within the boundaries or extraterritorial jurisdiction of any other municipality, whose property is not contiguous to the municipal boundaries of the City of Jacksonville, may, by petition directed to the City Council of the City of Jacksonville, request that the property described in the petition be annexed and made a part of the City of Jacksonville as hereinafter set out; provided any property annexed as herein provided must be located at the closest point not more than three miles from the City of Jacksonville municipal limits wherein is located and situated the City Hall.

Sec. 2. That said petition shall be directed to the City Council of the City of Jacksonville and shall contain:

(1) The names of the owners of the real property for which a request to annex is made.

(2) A description of the area to be annexed by metes and bounds.

(3) The signatures of all property owners of the area, territory or subdivision requesting annexation.

In the case of annexing a subdivision under this act, the petition must be signed by all owners of property within the subdivision; provided nothing herein shall be construed to authorize the annexation of a portion of a subdivision.

Upon receipt of the petition, the City Council of the City of Jacksonville

shall cause the clerk of the municipality to investigate the sufficiency thereof and to certify the results of his investigation.

Upon receipt of the certification and petition, the City Council shall fix a date for a public hearing on the question of annexation and shall cause notice of the public hearing to be published twice in a newspaper having general circulation in the municipality at least 10 days prior to the date of the public hearing. At the public hearing, all residents of Onslow County opposing or favoring the annexation or alleging an error in the petition shall be given an opportunity to be heard. The City Council shall then determine whether the petition meets the requirements of this act.

Upon further finding and determination by the City Council that:

(1) The public health, safety and welfare of the inhabitants of the City of Jacksonville, as well as those of the area, territory or subdivision requesting such annexation, will best be served by such annexation, and

(2) The City of Jacksonville, either alone or in conjunction with others, will be able to provide the same services to the annexed area, territory or subdivision in the same manner in which other areas within the municipal boundaries of said City are served, the City Council of the City of Jacksonville may adopt an ordinance annexing that area described in the petition: provided the ordinance annexing the area, territory or subdivision shall be passed at a meeting of the City Council after a public hearing has been held as hereinbefore provided. From and after the effective date of said ordinance, which date shall not be less than 90 days from and after the final passage of said ordinance the area, territory or subdivision and its citizens shall be subject to all debts, laws, ordinances and regulations in force in said City of Jacksonville and shall be entitled to the same benefits and privileges of other parts of said City. The newly annexed area, territory or subdivision shall be subject to city taxes for the fiscal year following the effective date of annexation. Provided, however, that property so annexed belonging to the County of Onslow, the State of North Carolina, or a Hospital Authority under Article 12 of Chapter 131 of the North Carolina General Statutes, shall not be subject to the debts or taxes of the City of Jacksonville.

Sec. 3. The City Council of the City of Jacksonville may make said annexation contingent on such conditions as it may desire in order to insure that the area, territory or subdivision proposed to be annexed will not receive preferential treatment.

Sec. 4. The City Council in its discretion may charge in any noncontiguous area, territory or subdivision annexed water or sewer rates, for such services furnished by it, in excess of those charged within the municipal limits wherein is located the City Hall.

Sec. 5. Whenever the limits of the City of Jacksonville are enlarged in accordance with the provisions of this act, it shall be the duty of the Mayor of the City of Jacksonville to cause an accurate map of the said area, territory or subdivision, newly annexed, together with a copy of the ordinance duly certified to be recorded in the office of the Register of Deeds of Onslow County and in the office of the Secretary of State of North Carolina.

Sec. 6. Any area, territory or subdivision annexed pursuant to this act shall cease to be noncontiguous for all intents and purposes when and in the event said area shall touch the municipal limits of the City of Jacksonville

pursuant to the extension of the boundaries of said City pursuant to Article 36, Chapter 160, of the General Statutes of North Carolina.

Sec. 7. Any area, territory or subdivision annexed pursuant to this act shall not be included in that area of the municipal boundaries used for determining any extraterritorial jurisdiction of the City of Jacksonville and further shall not be considered within the municipal boundaries for the purposes of defining an area as contiguous to the city limits within the provisions of Part 3 of Article 36 of Chapter 160 of the General Statutes of North Carolina with reference to further annexation unless and until the area, territory or subdivision annexed pursuant hereto shall, by extension of the municipal boundaries pursuant to Article 36 of Chapter 160 of the General Statutes of North Carolina, touch and become a part of the municipal boundaries of the City of Jacksonville wherein is located the City Hall. Any area, territory or subdivision annexed pursuant hereto may be included at only forty percent (40%) of the normal rate for the purposes of population density or character of any larger area, territory or subdivision to be annexed at any time in the future pursuant to the provisions of Part 3 of Article 36 of Chapter 160 of the General Statutes of North Carolina.

Sec. 8. The authority of the City of Jacksonville to annex under this act shall be restricted and limited to that territory herein described:

BEGINNING at an iron stake in the western right-of-way line of Western Boulevard, State Road 1470 which stake is 1184.88 feet from the center line of Carolina Power and Light Company 100 foot right-of-way when measured along Western Boulevard right-of-way in a northern direction; thence from said BEGINNING South 85 degrees 52 minutes West 250.0 feet to an iron stake; thence South 4 degrees 08 minutes East 642.10 feet to an iron stake in the center of a 30 foot drainage and utility easement; thence following the center of the easement South 35 degrees 30 minutes West 174.47 feet to a point on top of a corrugated metal pipe in the northern right-of-way of Oxford Road; thence following said right-of-way North 53 degrees 02 minutes West 1350.61 feet to an iron stake; thence South 26 degrees 31 minutes West 20.34 feet to an iron stake in the northern right-of-way line of Carolina Power and Light Company right-of-way; thence following said right-of-way North 52 degrees 59 minutes West 610.50 feet to an iron stake in the Stiles and White property line; thence following the said line North 26 degrees 31 minutes East 412.82 feet to a Railroad iron, Arnold heirs corner; thence following the Arnold line North 17 degrees 50 minutes East 628.80 feet to an iron stake; thence South 65 degrees 08 minutes East 1207.01 feet to the point of curvature; said curve having a radius of 411.97 feet; thence with the curve in a northeastern direction an arc distance of 217.14 feet to the point of tangency; thence North 84 degrees 40 minutes East 138.83 feet to an iron stake in the right-of-way curve of Western Boulevard; said curve having a radius of 3111.46 feet; thence in a southeastern direction with the right-of-way an arc distance of 65.0 feet to the point of tangency; thence continuing with the right-of-way South 4 degrees 08 minutes East 735.0 feet to the point of BEGINNING; being a small portion of the Weyerhaeuser Properties, Inc., Land, Parcel 8, recorded in Map Book 9, Page 45, and Parcel 3, recorded in Map Book 10, Page 42, Onslow County Registry.

Subject to a 20 foot easement across the Western Boulevard frontage used

jointly by Jones-Onslow Electric Membership Corporation; Brynn Marr Utility Company, utility easement; Weyerhaeuser Properties, Inc., drainage easement.

Sec. 9. The total area of all noncontiguous portions of the City annexed pursuant to this act shall at no time exceed ten percent (10%) of the total area of the City of Jacksonville wherein is located City Hall.

Sec. 10. This act shall be supplemental and in addition to any other methods or procedure for annexation heretofore available or hereafter provided for the City of Jacksonville.

Sec. 11. If any clause, sentence, paragraph, subsection, section or any part of this act shall for any reason be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such judgment shall not affect, impair or invalidate the remainder of this act but shall be confined in its operation to the part thereof directly involved in said judgment.

Sec. 12. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 10th day of May, 1973.

H. B. 815

CHAPTER 428

AN ACT TO CONFER THE POWER OF EMINENT DOMAIN TO THE BOARD OF COUNTY COMMISSIONERS OF MECKLENBURG COUNTY TO OBTAIN, WIDEN, EXTEND OR IMPROVE STREETS, ALLEYS, SIDEWALKS AND OTHER SUCH PUBLIC RIGHTS-OF-WAY.

The General Assembly of North Carolina enacts:

Section 1. In addition to any power conferred by any other general law or local act, the county commissioners of Mecklenburg County are hereby granted and do hereby possess the power of eminent domain, to acquire by condemnation the fee or any lesser interest in property for the purpose of opening, widening, extending or improving streets, alleys, sidewalks, and any other such public rights-of-way.

Sec. 2. In exercising the power of eminent domain for the purposes set out in Section 1 of this act, the county commissioners of Mecklenburg County shall follow any procedure authorized to counties by general law.

Sec. 3. This act shall apply only to Mecklenburg County.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of May, 1973.

H. B. 830

CHAPTER 429

AN ACT TO PERMIT THE CITY OF DURHAM TO ACCEPT DEEDS FOR REAL ESTATE IN PAYMENT OF TAXES AND SPECIAL ASSESSMENTS DUE THEREON IN LIEU OF FORECLOSURE OF THE TAX LIEN OR SPECIAL ASSESSMENT LIEN, AND TO RESELL SUCH PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. When the taxes or any special assessments upon any real property in the County of Durham are past due and unpaid, and the owner or owners thereof offer to convey such real property to the said City of Durham, the City Council of the City of Durham is authorized to accept the deed for such real property in payment of the taxes and special assessments due the said City, and to pay the necessary expense of procuring and recording such deed.

Sec. 2. The acceptance of such deed by the City Council of the City of Durham shall not interfere with the lien for taxes or assessments due any other taxing unit, and shall not interfere with any other valid recorded lien on such real property at the time of the execution of such deed. Any real property so conveyed to the City of Durham may be resold by such unit at any time to such person or persons and for such price as the City Council of the City of Durham may approve.

Sec. 3. This act shall be deemed to specifically amend the provisions of G.S. 105-357(a) as set forth in Section 1, Chapter 806, Session Laws of 1971.

Sec. 4. This act shall apply only to the City of Durham.

Sec. 5. This act shall be in full force and effect upon ratification.

In the General Assembly read three times and ratified, this the 10th day of May, 1973.

H. B. 837

CHAPTER 430

AN ACT CLARIFYING THE AUTHORITY OF THE GOVERNING BODY OF THE CITY OF DURHAM TO CONSTRUCT LOCAL IMPROVEMENTS ON ITS PUBLIC STREETS, SIDEWALKS AND ALLEYWAYS AND SPECIALLY ASSESS COSTS OR A PORTION OF THE COSTS THEREOF AGAINST ABUTTING PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. The provisions of Chapter 924, Session Laws of 1949, as amended by Chapter 820, Session Laws of 1961, are in all respects reenacted, ratified and confirmed.

Sec. 2. All proceedings and assessments enacted pursuant to the provisions of Chapter 924, Session Laws of 1949, as amended by Chapter 820, Session Laws of 1961, shall be deemed valid.

Sec. 3. This act shall apply only to the City of Durham.

Sec. 4. This act shall be in full force and effect upon ratification.

In the General Assembly read three times and ratified, this the 10th day of May, 1973.

H. B. 840 CHAPTER 431

AN ACT AMENDING G.S. 143-129 TO PERMIT THE CITY OF DURHAM TO ACCEPT BID BONDS ON PROPOSALS FOR CONSTRUCTION OR REPAIR WORK OR PURCHASE OF APPARATUS, SUPPLIES, AND MATERIALS, OR EQUIPMENT WITHOUT SUCH BOND BEING CONDITIONED UPON DOUBLE PAYMENT BY THE SURETY IN THE EVENT OF FORFEITURE AND FAILURE OF THE SURETY TO MAKE PROMPT PAYMENT.

The General Assembly of North Carolina enacts:

Section 1. The provisions of G.S. 143-129 is hereby amended by deleting from the second sentence of the eighth paragraph of said section the clause following the word "bond" in the tenth line of said paragraph and by replacing the comma following said word "bond" with a period. Said clause as deleted contains the words "and upon failure to forthwith make payment the surety shall pay to the obligee an amount equal to double the amount of said bid bond".

Sec. 2. This act shall apply only to the City of Durham.

Sec. 3. This act shall be in full force and effect upon ratification.

In the General Assembly read three times and ratified, this the 10th day of May, 1973.

H. B. 881 CHAPTER 432

AN ACT TO AMEND CHAPTER 713 OF THE SESSION LAWS OF 1965, BEING THE CHARTER OF THE CITY OF CHARLOTTE, RELATING TO EMINENT DOMAIN.

The General Assembly of North Carolina enacts:

Section 1. Section 7.81, Subchapter B of Chapter VII of Chapter 713 of the Session Laws of 1965, as amended by Chapter 216, Session Laws of 1967 and Chapter 384, Session Laws of 1969, is hereby further amended by deleting the word "and" after the word "facilities" and before the word "airport", and inserting in the same sentence after the word "purposes" and before the word "the", the phrase "off-street parking and parks".

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 10th day of May, 1973.

H. B. 895 CHAPTER 433

AN ACT TO AMEND CHAPTER 212, PRIVATE LAWS OF 1899, THE CHARTER OF THE TOWN OF HILDEBRAN.

The General Assembly of North Carolina enacts:

Section 1. Chapter 212, Private Laws of 1899, is hereby amended by deleting from Section 1 the words "as the commissioners may think best" and

inserting in lieu thereof the words “as authorized by the general laws of North Carolina.”

Sec. 2. Section 2 of Chapter 212, Private Laws of 1899, is hereby rewritten to read as follows:

“Sec. 2. The corporate limits of the town shall be that territory embraced in a circle, the radius of which shall extend one-half mile in every direction from a point in the middle of the intersection of State Road 1627 and U.S. Highway 64-70 in the town.”

Sec. 3. Section 3 of Chapter 212, Private Laws of 1899, is rewritten to read as follows:

“Sec. 3. The elective officers of the town shall be a mayor and three commissioners, who shall be elected by the qualified voters of the town for terms of two years. Beginning with the regular municipal election to be held in November 1973, the election shall be nonpartisan and decided by simple plurality. No primary election shall be held. The municipal elections shall be held and conducted by the County Board of Elections in accordance with Articles 23 and 24 of Chapter 163 of the General Statutes.”

Sec. 4. Section 4 of Chapter 212, Private Laws of 1899, is rewritten to read as follows:

“Sec. 4. V.B. Cagle is hereby appointed Mayor of the Town, and Mrs. Guy Martin, Mrs. Sandra Cooke and Mr. Bob Carpenter, are hereby appointed as the Board of Commissioners, all of whom shall exercise and perform the duties of said offices until their successors are elected in November, 1973.”

Sec. 5. Section 5 of Chapter 212, Private Laws of 1899, is rewritten as follows:

“Sec. 5. Any qualified voter who is a resident of the town shall be eligible to office and to vote in the town elections.”

Sec. 6. Section 6 of Chapter 212, Private Laws of 1899 is repealed.

Sec. 7. Section 7 of Chapter 212, Private Laws of 1899, is rewritten to read:

“Sec. 7. Special elections may be held as authorized by law.”

Sec. 8. Sections 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, and 20 of Chapter 212, Private Laws of 1899, are hereby repealed.

Sec. 9. All electives and appointive officers of the town shall take the oath of office required by the North Carolina Constitution.

Sec. 10. A vacancy occurring in the office of Mayor or on the Board of Commissioners, shall be filled by appointment by the Board of Commissioners and the person appointed shall serve for the unexpired term.

Sec. 11. Section 22 of Chapter 212, Private Laws of 1899 is hereby amended by deleting the word “marshall” and inserting in lieu thereof the words “town police”.

Sec. 12. Section 25 of Chapter 212, Private Laws of 1899, is rewritten to read:

“Sec. 25. The Board of Commissioners shall appoint a tax collector as provided by general law.”

Sec. 13. Sections 26, 27, 28, 29, 30, 32, and 35 of Chapter 212, Private Laws of 1899, are hereby repealed.

Sec. 14. Section 34 of Chapter 212, Private Laws of 1899, is hereby amended by deleting in lines 3 and 4 the words “the mayor, or”.

Sec. 15. Section 36 of Chapter 212, Private Laws of 1899, is rewritten to

read:

"Sec. 36. The Town of Hildebran shall have all the powers and authorities granted municipalities by the Constitution and general laws of this State."

Sec. 16. Chapter 290, Private Laws of 1913, is hereby repealed and all laws and clauses of laws in conflict with this act are repealed to the extent of such conflict.

Sec. 17. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of May, 1973.

H. B. 1246

CHAPTER 434

AN ACT TO PROVIDE FOR THE NONPARTISAN ELECTION OF THE FAYETTEVILLE CITY BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 360, Session Laws of 1963, is rewritten to read:

"Sec. 2. The Fayetteville City Board of Education (formerly known as the Trustees of the Fayetteville Graded Schools) shall consist of eight members who shall serve for staggered terms of six years, and who shall be elected in a nonpartisan election decided by a simple plurality as provided in Articles 23 and 24 of Chapter 163 of the General Statutes. The election shall be held at the same time and under the same laws applicable to elections for the City Council of Fayetteville beginning in November, 1973.

For purposes of electing school board members, the school district shall be divided into five areas which shall contain, as nearly as possible, equal number of inhabitants. One member of the City Board of Education shall be elected from each of the five areas, and three members shall be elected at large. Candidates shall be residents of the area from which they seek election except the three at-large members who shall reside in the school district. Candidates from the five areas, and at-large candidates shall be elected by the qualified voters of the entire district. Candidates shall file notice of candidacy as provided in G.S. 163-294.2, provided the candidates from the five areas shall indicate the number of the area from which they run and the at-large candidates shall so indicate on the notice of candidacy.

There shall be a separate ballot for the Board of Education election and the ballot shall indicate the area of each candidate or whether he is at large.

Instructions on the ballots shall inform the voter that he may vote for one candidate from each area, and for the number of at-large members who are to be elected.

The Board of Elections shall establish the five areas and shall, every four years, redistrict the areas to maintain population equality, and shall publish in a local newspaper a description thereof 30 days before the time for filing begins.

The terms of the incumbent members of the Fayetteville City Board of Education are hereby extended or reduced to expire on the first Monday in December, 1973.

The first election under this act shall be held in November, 1973, at which time all members of the City Board of Education shall be elected. The persons elected from areas 1 and 2 shall be elected for a term of two years. The persons elected from areas 3 and 4 shall be elected for a term of four years. The person

elected from area 5 and the persons elected at large shall be elected for terms of six years. Thereafter as the terms expire, the successors shall be elected for terms of six years. A vacancy occurring in the membership of the City Board of Education, other than expiration of term, shall be filled for the unexpired term by appointment by the remaining members of the Board, subject to the residency requirements of this act."

Sec. 2. Sections 3, 4 and 5 of Chapter 360, Session Laws of 1963, and all other laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of May, 1973.

H. B. 85

CHAPTER 435

AN ACT RELATING TO THE RECOMMENDATION AND APPOINTMENT OF PRECINCT OFFICIALS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-41 is amended by rewriting the fourth paragraph to read as follows:

"The chairman of each political party in the county, where possible, shall shall recommend five registered voters in each precinct, who are otherwise qualified, and who are residents of the precinct, and who have good moral character and are able to read and write, for appointment as registrar and judges of election in that precinct. If such recommendations are received by the county Board of Elections before the seventh Saturday before the primary is to be held, it must make precinct appointments from the names of those recommended."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of May, 1973.

H. B. 100

CHAPTER 436

AN ACT TO AMEND THE HOSPITAL, MEDICAL AND DENTAL SERVICE CORPORATIONS ACT TO PROVIDE FOR REIMBURSEMENT FOR CERTAIN ACTS AND SERVICES OF CERTAIN NURSES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 57 of the General Statutes is hereby amended by inserting a new section immediately following G.S. 57-3.1, to be designated G.S. 57-3.2, and to read as follows:

"§ 57-3.2. *Nurses' services.*—No agency, institution or physician providing a service for which payment or reimbursement is required to be made under a contract governed by this Chapter shall be denied such payment or reimbursement on account of the fact that the service was rendered through a registered nurse acting under authority of rules and regulations adopted by the Board of Medical Examiners and the Board of Nursing pursuant to G.S. 90-6 and 90-162.

Nothing herein shall be construed to authorize contracting with or making payments directly to a nurse not otherwise permitted."

Sec. 2. This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of May, 1973.

H. B. 101

CHAPTER 437

AN ACT TO AMEND THE INSURANCE ACT TO PROVIDE FOR REIMBURSEMENT FOR CERTAIN ACTS AND SERVICES OF CERTAIN NURSES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 58 of the General Statutes is hereby amended by inserting a new section immediately following G.S. 58-259.1 to be designated G.S. 58-259.2, and to read as follows:

“§ 58-259.2 *Nurses' services.*—No agency, institution or physician providing a service for which payment or reimbursement is required to be made under a policy governed by this Chapter shall be denied such payment or reimbursement on account of the fact that such services were rendered through a registered nurse acting under authority of rules and regulations adopted by the Board of Medical Examiners and the Board of Nursing pursuant to G.S. 90-6 and 90-162.

Nothing herein shall be construed to authorize contracting with or making payments directly to any nurse not otherwise permitted.”

Sec. 2. This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of May, 1973.

H. B. 190

CHAPTER 438

AN ACT TO PROVIDE FOR THE ISSUANCE OF SPECIAL IDENTIFICATION CARDS TO RESIDENTS OF THIS STATE NOT POSSESSING A DRIVER'S LICENSE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 20 of the General Statutes is hereby amended by adding a new Article as follows:

“Article 2B.

“Special Identification Cards for Nonoperators.

“§ 20-37.7. *Special identification card.*—(a) The Department of Motor Vehicles shall upon satisfactory proof of identification issue a special identification card to any person 16 years or older who is a resident of the State of North Carolina and for any reason does not possess a valid driver's license issued by the Department of Motor Vehicles.

(b) Every application for a special identification card shall be made upon the approved form furnished by the Department.

(c) A special identification card issued under this section shall be similar in size, shape, and design to a driver's license and shall include a photograph, but the card shall be of a distinctive color and shall clearly state that it does not enable the person to whom it is issued to operate a motor vehicle.

(d) A special identification card shall not expire but may be reissued. The fee for the issuance or reissuance of a special identification card shall be one dollar (\$1.00) and shall be placed in the ‘operator's and chauffeur's license fund’ for use as provided in G.S. 20-7(j).

(e) Any fraud or misrepresentation in the application for or use of a special

identification card issued under this section is a misdemeanor, punishable by a fine of not more than five hundred dollars (\$500.00) or by imprisonment of 90 days, or both.

(f) The Department of Motor Vehicles shall maintain hard copies of applications and information pertaining to the recipients of a special identification card and such indices as deemed appropriate, but such information shall not be required to be computerized. The Department may promulgate any rules and regulations it deems necessary for the effective implementation of the provisions of this section.

(g) The fact of issuance of a special identification card pursuant to this section shall not place upon the State of North Carolina or any agency thereof any liability for the misuse thereof and the acceptance thereof as valid identification is a matter left entirely to the discretion of any person to whom such card is presented.

(h) The Department may utilize the various communications media throughout the State to inform North Carolina residents of the provisions of this section."

Sec. 2. This act shall become effective on October 1, 1973.

In the General Assembly read three times and ratified, this the 10th day of May, 1973.

H. B. 201

CHAPTER 439

AN ACT TO AMEND G.S. 20-13(a) CONCERNING THE SUSPENSION OF THE LICENSE OF A PROVISIONAL LICENSEE FOR A MOVING VIOLATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-13(a) is hereby amended by rewriting the last sentence thereof to read as follows:

"A motor vehicle moving violation, as used herein, does not include any of those offenses for which no points under the point system may be assessed by specific reference in G.S. 20-16(c), nor does the term include those equipment violations specified in Part 9 of Article 3 of this Chapter."

Sec. 2. This act shall become effective on July 1, 1973.

In the General Assembly read three times and ratified, this the 10th day of May, 1973.

H. B. 249

CHAPTER 440

AN ACT TO AMEND G.S. 20-328 TO DELETE THEREFROM THE REFERENCE TO THE DRIVER EDUCATION AND ACCIDENT REPORTS DIVISION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-328 is hereby rewritten to read as follows:

"§ 20-328. *Administration of Article.*—This Article shall be administered by the Department of Motor Vehicles with no additional appropriations."

Sec. 2. This act shall become effective on July 1, 1973.

In the General Assembly read three times and ratified, this the 10th day of May, 1973.

H. B. 253

CHAPTER 441

AN ACT TO AMEND G.S. 20-9(b) TO MAKE THE SAME CONSISTENT WITH PROVISIONS OF G.S. 20-16.2(c).

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-9(b) is hereby rewritten to read as follows:

“(b) The Department shall not issue an operator’s or chauffeur’s license to any person whose license, either as operator or chauffeur, has been suspended or revoked during the period for which the license was suspended or revoked.”

Sec. This act shall become effective on July 1, 1973.

In the General Assembly read three times and ratified, this the 10th day of May, 1973.

H. B. 264

CHAPTER 442

AN ACT TO AUTHORIZE VOLUNTEER FIRE DEPARTMENTS, LIFESAVING RESCUE SQUADS, TO PURCHASE GAS, OIL, AND TIRES ON STATE CONTRACT.

The General Assembly of North Carolina enacts:

Section 1. In consideration of public service, any volunteer nonprofit fire department, lifesaving and rescue squad in this State is hereby authorized to purchase gas, oil, and tires for their official vehicles under State contract through the Department of Administration, and to purchase surplus property through the Department of Administration on the same basis applicable to counties and municipalities.

The Department of Administration shall make its services available to these organizations in the purchase of such supplies under the same laws, rules and regulations applicable to nonprofit organizations as provided in G.S. 143-49.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of May, 1973.

H. B. 272

CHAPTER 443

AN ACT TO PRESCRIBE THE CONDITIONS AND PROCEDURES UNDER WHICH PROPERTIES MAY BE PLACED IN THE STATE NATURE AND HISTORIC PRESERVE.

The General Assembly of North Carolina enacts:

Section 1. *Short Title.* This act shall be known and may be cited as the State Nature and Historic Preserve Dedication Act.

Sec. 2. *Purpose.* It is the purpose of this act to prescribe the conditions and procedures under which properties may be specially dedicated for the purposes enumerated by Article XIV, Section 5 of the North Carolina Constitution (“Conservation of Natural Resources”), accepted by the General Assembly for said purposes, and thereby constituted part of the State Nature and Historic Preserve.

Sec. 3. *Procedures.* (a) The Council of State may petition the General Assembly to adopt a resolution pursuant to Article XIV, Section 5 of the North Carolina Constitution, accepting any properties owned by the State of North

Carolina (or proposed for gift to or purchase by the State) and designated in said petition for inclusion in the State Nature and Historic Preserve.

(b) The governing body of any local government, or any combination of two or more such bodies may petition the General Assembly to adopt a resolution pursuant to Article XIV, Section 5 of the North Carolina Constitution, accepting any properties owned by said local government (or proposed for gift to or purchase by said local government) and designated in said petition for inclusion in the State Nature and Historic Preserve.

(c) The petition referred to in subsections (a) and (b) of this section shall identify the properties sought to be included in the Preserve. The General Assembly may then by joint resolution accept the designated properties in the Preserve and adoption of said resolution by the General Assembly shall constitute the special dedication and acceptance of the designated properties in the State Nature and Historic Preserve contemplated by Article XIV, Section 5 of the North Carolina Constitution.

(d) In order to provide accessible information to the public concerning the State Nature and Historic Preserve, every resolution accepting properties in the Preserve shall be codified in the General Statutes. A certified copy of every resolution accepting properties in the Preserve shall be transmitted by the Secretary of State to the register of deeds in each county wherein said properties, or any part of them, are located, for filing and indexing in the grantor index.

(e) Within the meaning of this section:

(i) "Local governing body" means, as the case may be, the board of commissioners of a county, the city council (or equivalent legislative body) of a city, or the board of aldermen or board of commissioners (or equivalent legislative body) of a town.

(ii) "Local government" means a county, city or town.

(iii) "Properties" include any properties or interest in properties acquired by purchase or gift.

(f) This act shall constitute an exclusive procedure only for placing properties in the State Nature and Historic Preserve, and shall not preclude the dedication of properties by other means for purposes identical or similar to those enumerated by Article XIV, Section 5 of the North Carolina Constitution.

(g) It is the intent of this act to complement any applicable provisions of federal and State law and regulations relating to dedication or acceptance of properties for purposes similar to those enumerated by Article XIV, Section 5 of the North Carolina Constitution. The Council of State is hereby authorized to adopt rules and regulations to implement the provisions of this act, including rules and regulations consistent with this act to comport with applicable federal and State law and regulations. A copy of this act, and of any such rules or regulations affecting properties owned by local governments shall be filed by the Council of State with the chairman of the local governing body of every county, city and town within thirty days after ratification or adoption as the case may be.

Sec. 4. The dedication of property to the State Nature and Historic Preserve shall not prevent the administering state agency or local governing body from carrying out normal maintenance and improvement of existing structures or facilities that are appropriate to, and consistent with, the purpose

for which the property in question was obtained by the state agency or local governing body.

Sec. 5. *Effective Date.* This act shall become effective on July 1, 1973.

In the General Assembly read three times and ratified, this the 10th day of May, 1973.

H. B. 337

CHAPTER 444

AN ACT TO REQUIRE THE RECORDATION OF THE ORDER OF APPROVAL OF SANITARY LANDFILL SITES, IN ORDER TO PROTECT SUBSEQUENT PURCHASERS OF THE SITE.

The General Assembly of North Carolina enacts:

Section 1. A new section, numbered G.S. 130-166.21, is added at the end of Article 13B of G.S. Chapter 130, to read as follows:

“§ 130-166.21. *Recordation of order of approval of landfill sites.*—Whenever the State Board of Health approves a sanitary landfill as a solid waste disposal facility, the successful applicant for approval shall file a certified copy of the Board's order of approval in the register of deeds' office of the county or counties in which the landfill is located. The register of deeds shall record the copy of the order of approval and index it in the grantor index under the name of the owner or owners of the landfill site.

The Board's order of approval shall include a description of the landfill site that would be sufficient as a description in an instrument of conveyance. When the Board transmits its order of approval to the successful applicant, it shall cause a certified copy of its order to be included with the original order, which copy shall be the copy filed in the register of deeds' office by the applicant. The chairman of the State Board or his duly authorized representative shall certify the copy of the order of approval, and this certificate need not be acknowledged nor probated. The order of approval may not take effect until the certified copy has been filed as required by this section.”

Sec. 2. This act takes effect upon ratification.

In the General Assembly read three times and ratified, this the 10th day of May, 1973.

H. B. 376

CHAPTER 445

AN ACT TO REENACT G.S. 31-31.1 SO AS TO VALIDATE CERTAIN ACTS OF NOTARIES PUBLIC AND DEPUTY CLERKS OF THE SUPERIOR COURT WHICH HAVE BEEN PERFORMED SINCE 1945.

The General Assembly of North Carolina enacts:

Section 1. G.S. 31-31.1 as it appears in Volume 2A of the General Statutes of North Carolina is hereby reenacted in its entirety.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of May, 1973.

H. B. 1125

CHAPTER 446

AN ACT TO AMEND G.S. 115-39 TO PROVIDE THAT THE TERM AND CONDITIONS OF EMPLOYMENT OF THE SUPERINTENDENT SHALL BE STATED IN A WRITTEN CONTRACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115-39 is amended by rewriting the last two sentences in the first paragraph as follows:

"The term and conditions of employment shall be stated in a written contract which shall be entered into between the board of education and the superintendent. A copy of the contract shall be filed with the State Superintendent of Public Instruction before any person is eligible for this office. A certification to the county board of education by the State Superintendent of Public Instruction showing that the person proposed for the office of county superintendent of schools holds a superintendent's certificate and has had three years' experience in school work in the past ten years, together with a doctor's certificate showing the person to be free from any contagious or communicable disease, shall make any person eligible for this office: Provided, the requirement of a superintendent's certificate shall not be applicable to persons now serving as superintendents. Immediately after the election, the chairman of the county board of education shall report the name and address of the person elected to the State Superintendent of Public Instruction."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of May, 1973.

S. B. 218

CHAPTER 447

AN ACT TO PERMIT FORFEITURE OF CONVEYANCES UNDER ADDITIONAL CIRCUMSTANCES.

The General Assembly of North Carolina enacts:

Section 1. Subsection c. of G.S. 90-112(a)(4) is hereby rewritten to read as follows:

"c. No conveyance shall be forfeited unless the violation involved is a felony under this Article."

Sec. 2. This act shall become effective January 1, 1974.

In the General Assembly read three times and ratified, this the 11th day of May, 1973.

S. B. 387

CHAPTER 448

AN ACT TO CLARIFY AND EXPAND THE GRANT OF TAX RELIEF FOR THE PROPERTY OF ELDERLY PERSONS WITH LIMITED INCOMES.

The General Assembly of North Carolina enacts:

Section 1. Article 12 of Chapter 105 of the General Statutes is hereby amended by rewriting G.S. 105-277.1 to read as follows:

"§ 105-277.1. *Property classified for taxation at reduced valuation.*—(a) Class. The following class of property is hereby designated a special class under authority of Article V, Section 2(2), of the North Carolina Constitution and,

after being listed, shall not be assessed or taxed: The first five thousand dollars (\$5,000) in assessed tax value of real and personal property of a North Carolina resident held and used by the owner for personal purposes, if, at any time during the year in which benefit of this classification is sought, the owner is 65 years of age or older, and the disposable income of the owner during the preceding calendar year was not more than five thousand dollars (\$5,000). Property in this class that passes to the surviving spouse at the death of a qualifying owner shall remain in the class if the surviving spouse is 60 years of age or older and if the surviving spouse meets and complies with all other requirements of this classification.

(b) Definitions. For purposes of this section, the following definitions shall apply:

- (1) A person is an 'owner' of real property when he holds legal or equitable title to a life estate, an estate for the life of another, a joint tenancy, or a tenancy in common, or when he holds individually or as a tenant by the entirety, the entire legal or equitable title, subject to easements, removable liens, and other similar encumbrances, if any. A person is an 'owner' of personal property when he holds legal or equitable title thereto alone or jointly with one or more other persons, subject to removable liens and other similar encumbrances, if any. When property that qualifies for the class defined in subsection (a), above, is owned by two or more persons, each owner whose interest falls within such class shall be entitled to apply the full amount of the exclusion afforded the class against the tax valuation of his interest, but no part of an exclusion available to one co-owner shall be applied to the interests of other owners of the same property and in no event shall the exclusion allowed against the valuation of qualifying property exceed \$5,000.
- (2) 'Disposable income' means adjusted gross income of the owner or of the owner and his or her spouse, if residing with the owner, as defined for North Carolina Income Tax purposes in G.S. 105-141.3, increased by amounts excluded from gross income pursuant to G.S. 105-141(b)(1), (2), (4), (8), (10), (12), (13), (14), (15) and (16).

(c) Application. To bring his property within the class defined in subsection (a), above, in any year, the taxpayer, if eligible for the exclusion provided in this section, shall, not later than May 1, supply the following information: date of birth and disposable income during the calendar year preceding the year in which the benefit of this classification is sought. A request for such classification must be made each year in the manner and on the form prescribed herein.

(d) Multiple owners. If two or more persons share ownership of property that qualifies for any one of the classes defined in subsection (a), above, each shall make application as prescribed in subsection (c), above."

Sec. 2. G.S. 105-309 is hereby amended by redesignating (e) thereof as subsection (f) and inserting a new subsection to be designated subsection (e) and to read as follows:

"(e) The following form shall appear on each abstract and the information supplied therein shall be subject to the affirmation annexed to the abstract:

**'TAX RELIEF FOR THE PROPERTY
OF ELDERLY PERSONS WITH LIMITED INCOMES.**

If you are over 65 years of age, or if you will become 65 during the year for which you are listing property for taxation, and your disposable income did not exceed five thousand dollars (\$5,000) for the preceding calendar year, you are eligible for a tax exclusion of up to five thousand dollars (\$5,000) for property you hold and use for personal purposes. Disposable income is defined in G.S. 105-277.1(b)(2).

The following information must be supplied to claim this exclusion:

1. Date of Birth: _____
(Month) (Day) (Year)
2. Disposable income for _____: \$ _____
(Year)

This information is supplied under penalties prescribed by law of a fine not to exceed five hundred dollars (\$500.00) or imprisonment not to exceed six months for false affirmation according to G.S. 105-310."

Sec. 3. This act shall become effective and apply to all taxable years beginning on and after January 1, 1974.

In the General Assembly read three times and ratified, this the 11th day of May, 1973.

S. B. 634**CHAPTER 449**

**AN ACT TO AMEND G.S. 89-2 (5) TO DEFINE THE PRACTICE OF
LAND SURVEYING.**

The General Assembly of North Carolina enacts:

Section 1. G.S. 89-2 (5) is rewritten so that the same shall read as follows:

"(5) The term, 'Practice of Land Surveying', within the intent of this act, shall mean any service or work, the adequate performance of which involves the application of special knowledge of the principles of mathematics, the related physical and applied sciences and the relevant requirements of law for adequate evidence to the act of measuring and locating lines, angles, elevations, natural and man-made features in the air, on the surface of the earth, within underground workings, and on the beds of bodies of water for the purpose of determining areas and volumes, for the monumenting of property boundaries, and for the platting and layout of lands and subdivisions thereof, including the topography, alignment and grades of streets and incidental drainage within the subdivision, and for the preparation and perpetuation of maps, record plats, field note records and property descriptions that represent these surveys."

Sec. 2. All laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 11th day of May, 1973.

S. B. 636

CHAPTER 450

AN ACT AMENDING CHAPTER 88 OF THE GENERAL STATUTES SO AS TO DELETE THEREFROM THE REQUIREMENT OF A PHYSICAL EXAMINATION PRIOR TO BECOMING A REGISTERED COSMETOLOGIST.

The General Assembly of North Carolina enacts:

Section 1. G.S. 88-10 is hereby amended by deleting all of subsection (2) thereof and redesignating subsections (3), (4), and (5) as (2), (3), and (4) respectively.

Sec. 2. G.S. 88-12 is hereby amended by deleting all of subsection (3) thereof and redesignating subsections (4) and (5) as (3) and (4) respectively.

Sec. 3. G.S. 88-25 is hereby amended by deleting from lines 3 and 4 the words "file with the Secretary of the Board, a renewal certificate as to physical fitness,". G.S. 88-25 is further amended by deleting from lines 9 and 10 the comma following the word "fee" and the words "and furnishing to the Secretary of the Board renewal certificate as to physical fitness".

Sec. 4. G.S. 88-30 is hereby amended by deleting therefrom all of subsection (3) and by redesignating (4) as (3).

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of May, 1973.

S. B. 892

CHAPTER 451

AN ACT TO AMEND G.S. 105-275(6) RELATING TO EXCLUSIONS FROM THE AD VALOREM TAX BASE FOR SPECIAL NUCLEAR MATERIALS IN THE PROCESS OF REPROCESSING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-275(6), as the same appears in Chapter 290 of the 1973 Session Laws, is hereby amended as follows:

(a) by inserting in line 2 of G.S. 105-275(6), before the word "processing" the word "or"; and

(b) by striking out of lines 2 and 3 of G.S. 105-275(6) the words "or reprocessing"; and

(c) by inserting in line 5 of G.S. 105-275(6) immediately before the word "processor" the word "or"; and

(d) by striking out of line 5 of G.S. 105-275(6) the words ", or reprocessor"; and

(e) by striking out of line 6 of G.S. 105-275(6) the word "plutonium,"; and

(f) by adding at line 14 of G.S. 105-275(6) the following:

"The classification and exclusion provided for herein shall be denied to any manufacturer, fabricator or processor who permits burial of such material in North Carolina or who permits the discharge of such nuclear materials into the air or into any river, creek or stream in North Carolina if such discharge would

contravene in any way the applicable health and safety standards established and enforced by the North Carolina State Board of Health, the North Carolina Department of Natural and Economic Resources, or the Federal Atomic Energy Commission. The most stringent of these standards shall govern."

Sec. 2. This act shall become effective on January 1, 1974.

In the General Assembly read three times and ratified, this the 11th day of May, 1973.

H. B. 296

CHAPTER 452

AN ACT TO PROTECT THE PUBLIC HEALTH BY INSURING PROPER REGULATION OF GROUND ABSORPTION SEWAGE DISPOSAL SYSTEMS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 130 of the General Statutes is hereby amended by inserting therein a new Article.

Sec. 2. Short Title. This Article shall be known and may be cited as the "Ground Absorption Sewage Disposal System Act of 1973".

Sec. 3. Preamble. The General Assembly finds and declares that continued installation, at a rapidly and constantly accelerating rate, of septic tanks and other types of ground absorption sewage disposal systems in a faulty or improper manner and in areas where unsuitable soil and population density adversely affect the efficiency and functioning of these systems has a detrimental effect on the public health through contamination of the ground water supply. Recognizing, however, that ground absorption sewage disposal can be rendered ecologically safe and the public health protected if such methods of sewage disposal are properly regulated and recognizing that ground absorption sewage disposal will continue to be necessary for the adequate and economical housing of an expanding population, the General Assembly intends hereby to insure the regulation of ground absorption sewage disposal systems so that such systems may continue to be used, where appropriate, without jeopardizing the public health.

Sec. 4. Definitions. As used herein, unless the context otherwise requires:

(a) "construction" means any work at the site of placement done for the purpose of preparing a dwelling or mobile home for initial occupancy;

(b) "location" means the initial placement of a mobile home;

(c) "relocation" means the displacement of a dwelling or mobile home from one site to another;

(d) "septic tank system" means a ground absorption sewage disposal system consisting of a holding or settling tank and a ground absorption field;

(e) "ground absorption sewage disposal system" means a sewage disposal method relying primarily on the soil for leaching and removal of dissolved and suspended organic or mineral materials from human waste, including a privy;

(f) "health department" means any county, city, district, consolidated city-county or other health department authorized to be organized under Chapter 130 of the General Statutes;

(g) "mobile home dealer" means every person or firm offering mobile homes for sale within this State;

(h) "mobile home sales lot" means any place where two or more mobile homes are displayed and offered for sale.

Sec. 5. Improvements permit required. (a) No person shall commence the construction or relocation of any dwelling nor shall any person locate, relocate or cause to be located or to be relocated any mobile home intended for use as a dwelling, other than one in a mobile home park, on a site in an area not served by a public or community sewage disposal system without first obtaining an improvements permit from the local health department having jurisdiction.

(b) The local health department shall issue an improvements permit authorizing work to proceed and the use of a septic tank or other ground absorption disposal system when it has determined, after a field investigation of the area, including such factors as character and porosity of soil, percolation rate, topography, depth to water table and rock or other impervious formations and location or proposed location of any water supply wells, that such a system can be installed at the site in compliance with the rules and regulations of the local board of health governing such installations; provided, however, that no septic tank system which is attempted to be installed shall be covered with soil until the local health department determines that the system as installed is in compliance with the rules and regulations governing such installations; provided further, that this Article does not limit or interfere with the authority of the State Board of Health to adopt and enforce reasonable rules and regulations under authority of G.S. 130-160.

Sec. 6. Certificate of Completion. Upon determining that a ground absorption sewage disposal system is properly installed, the local health department shall issue a certificate of completion authorizing a conventional dwelling to be occupied following construction or relocation activity upon that dwelling. Upon determining that a ground absorption sewage disposal system is properly installed, the local health department shall issue a certificate of completion authorizing a mobile home to be occupied following its location or relocation. No person shall occupy a dwelling or mobile home until a certificate of completion has been issued.

Sec. 7. Improvements Permit or Certificate of Completion Required Before Other Permits to Issue. (a) Where construction or relocation activity is proposed to be done upon a conventional dwelling, no permit required for electrical, plumbing, heating, air conditioning or other construction, location or relocation activity under any provision of general or special law shall be issued until after an improvements permit has been issued.

(b) Where location or relocation is proposed for a mobile home, no permit required for electrical, plumbing, heating, air conditioning or other construction, location or relocation activity under any provision of general or special law shall be issued until after a certificate of completion has been issued.

Sec. 8. Limitation on Electrical Service. It shall be unlawful for any person, partnership, firm, or corporation to allow any electric current for use at the locating or relocating of a mobile home intended to be used as a dwelling, other than one in a mobile home park, or to a dwelling upon construction, location or relocation until the official electrical inspector with jurisdiction as provided in G.S. 143-143.2 certifies to the electrical supplier that the required improvements permit for conventional dwellings or the required certificate of completion for mobile homes has been issued.

Sec. 9. Appeals. Any owner or builder denied an improvements permit or a certificate of completion under this Article shall have a right of appeal to the local board of health, provided such action is taken within 15 days of denial. Notice of appeal shall be given by filing with the local health director a demand for a hearing. Upon filing of such notice the local health director shall, within three days, transmit to the board of health the papers and materials constituting the record upon which the decision appealed from was made.

The local board of health shall hold a hearing within 15 days of the receipt of the notice of appeal. The board shall give the appellant not less than five days' notice of the date, time, and place of the hearing. Any party may appear in person or by agent or attorney. In considering appeals, the board shall have authority only to determine whether a ground absorption system can be installed in compliance with its rules and regulations or whether the work done so complies.

No person denied an improvements permit or certificate of completion shall proceed with any work or improvement activity whatsoever or shall occupy any dwelling or reside in any mobile home unless and until the department issues the necessary permit.

Sec. 10. Judicial Review. Any owner or builder denied a permit under this Article shall have a right of appeal to the district court having jurisdiction, if such appeal be made within 10 days after the date of the denial by the board.

Sec. 11. Duties of Mobile Home Dealers. (a) Every mobile home dealer doing business in this State shall be required to furnish each purchaser of a mobile home an easily understandable summary of the provisions of this act. The State Board of Health shall prepare the summary and shall make sufficient copies available to dealers.

(b) Each mobile home dealer shall be required to post conspicuously at the office of each mobile home sales lot the following:

"NOTICE: State law requires that the local health department determine the method and adequacy of sewage disposal before a mobile home is placed on the premises."

Sec. 12. Exemptions. No provision of this Article shall apply to persons developing land in areas not served by community sewer systems who present acceptable plans for installation of community sewer systems to the local health department and the North Carolina Board of Water and Air Resources and who certify that such system will be installed before permitting occupancy.

Sec. 13. Penalties. Any person who knowingly violates any provision of this act shall be guilty of a misdemeanor and shall be punishable by a fine not to exceed two hundred dollars (\$200.00).

Sec. 14. Severability. If any provision of this act or the application thereof to any person or circumstances is declared invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provisions or applications, and to this end the provisions of this act are declared to be severable.

Sec. 15. Effective Date. This act shall become effective October 1, 1973.

In the General Assembly read three times and ratified, this the 11th day of May, 1973.

H. B. 370

CHAPTER 453

AN ACT TO PROHIBIT ANNEXATION INTO FORSYTH COUNTY BY ANY GOVERNMENTAL UNIT LOCATED OUTSIDE OF FORSYTH COUNTY, AND TO PROHIBIT ANNEXATION OF NONCONTIGUOUS TERRITORY WITHIN FORSYTH COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Except as provided by Section 2 of this act, no city, special district, or other political subdivision of North Carolina located primarily outside of Forsyth County may annex any territory within Forsyth County or extend its extraterritorial jurisdiction into Forsyth County.

Sec. 2. A city located primarily outside of Forsyth County may annex territory inside of Forsyth County pursuant to the provisions of G.S. 160-452, or any statute revising or superceding G.S. 160-452.

Sec. 3. All laws, both general and local, in conflict with this act are repealed insofar as they are in conflict.

Sec. 4. This act takes effect upon ratification.

In the General Assembly read three times and ratified, this the 11th day of May, 1973.

H. B. 811

CHAPTER 454

AN ACT RELATING TO THE JURISDICTION OF THE BOARD OF COUNTY COMMISSIONERS OVER COMMISSIONS, BOARDS AND AGENCIES.

The General Assembly of North Carolina enacts:

Section 1. In the exercise of its jurisdiction over commissions, boards and agencies, the Board of County Commissioners is hereby authorized to assume direct control of any activities theretofore conducted by or through any commission, board or agency by the adoption of a resolution assuming and conferring upon the Board of County Commissioners all powers, responsibilities and duties of any such commission, board or agency. This act shall apply to the Board of Health, the Social Services Board, Board of Mental Health (area) and any other commission, board or agency appointed by the Board of County Commissioners and/or acting under and pursuant to authority of the Board of County Commissioners of said County. It is provided, however, that the Board of County Commissioners may exercise the power and authority herein conferred only after a public hearing held by said Board pursuant to 30 days' notice of said public hearing given in a newspaper having general circulation in said County.

Sec. 2. The Board of County Commissioners is further authorized and empowered, in the exercise of its discretion, to appoint advisory boards, committees, councils and agencies composed of qualified and interested county residents to study, interpret and develop community support and cooperation in activities conducted by or under the authority of the Board of County Commissioners of said County.

Sec. 2 1/2. This act applies to counties with a population in excess of 325,000.

Sec. 3. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of May, 1973.

H. B. 813

CHAPTER 455

AN ACT TO GIVE THE BOARD OF COUNTY COMMISSIONERS THE ELECTION TO SERVE AS THE AREA MENTAL HEALTH BOARD IN ONE COUNTY AREA MENTAL HEALTH PROGRAMS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 122-35.20 as the same appears in the 1971 Cumulative Supplement to Volume 3B of the General Statutes is hereby amended and rewritten to read as follows:

“§ 122-35.20. *Area mental health boards.*—(a) In areas where area mental health programs are established in accordance with this Article, an area mental health board shall be appointed for each designated area. The area mental health board shall meet at least six times per year and, if appointed, shall consist of 15 members.

(b) In areas consisting of only one county with a population of 325,000 or more, the board of county commissioners may serve as the area mental health board, or they shall appoint all the members of the area mental health board. In areas consisting of more than one county and in areas consisting of only one county where the population is less than 325,000, each board of county commissioners within the area shall appoint one commissioner as a member of the area mental health board. These members shall appoint the other members of the area mental health board in such a manner as to provide equitable area-wide representation.

(c) The area mental health board, if appointed, shall include:

- (1) At least one commissioner from each county;
- (2) At least two persons duly licensed to practice medicine in North Carolina;
- (3) At least one representative from the professional fields of psychology, or social work, or nursing, or religion;
- (4) At least three representatives from local citizen organizations active in mental health, or in mental retardation, or in alcoholism, or in drug dependence;
- (5) At least one representative from local hospitals or area planning organizations;
- (6) At least one attorney practicing in North Carolina.

(d) Any member of an area mental health board who is a public official shall be deemed to be serving on the board in an ex officio capacity to his public office. The ex officio members shall serve to the end of their respective terms as public officials. The other members, if any, shall serve four-year terms, except that upon initial formation of an area mental health board, three members shall be appointed for one year, two members for two years, three members for three years, and all remaining members for four years.

(e) Subject to the supervision, direction, and control of the State Board of Mental Health, the area mental health board shall be responsible for reviewing and evaluating the area needs and programs in mental health, mental impairment, mental retardation, alcoholism, drug dependence, and related

fields, and for developing jointly with the State Department of Mental Health an annual plan for the effective development, use and control of State and local facilities and resources in a comprehensive program of mental health services for the residents of the area.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of May, 1973.

S. B. 172

CHAPTER 456

AN ACT TO MAINTAIN THE SAME AUTOMOBILE LIABILITY INSURANCE RATE WHEN INSURANCE IS CHANGED FROM ONE VEHICLE TO ANOTHER AFTER AN INCREASE IN RATES.

The General Assembly of North Carolina enacts:

Section 1. When coverage under an existing automobile liability insurance policy is transferred from one automobile to another after the approval of a rate increase by the Commissioner, the rate for the policy shall not be increased during the remainder of the contract period. Nothing contained herein shall prevent an increase in rates for a change in classification when the risk or underwriting information on a particular policyholder warrants such a change.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of May, 1973.

S. B. 193

CHAPTER 457

AN ACT TO AMEND G.S. 14-72.1.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-72.1, as the same appears in the 1971 Cumulative Supplement to the General Statutes of North Carolina, is hereby amended by redesignating subsection (c) as subsection (d), by redesignating subsection (b) as subsection (c) and by rewriting the new subsection (c) to read as follows:

“(c) Any person who has been found guilty of an offense under either subsection (a) or subsection (b) of this section and who is later found guilty of an offense under either subsection (a) or subsection (b) of this section shall be guilty of a general misdemeanor and shall be punished in the discretion of the court.”

Sec. 2. G.S. 14-72.1, as the same appears in the 1971 Cumulative Supplement to the General Statutes of North Carolina, is further amended by adding a new subsection (b) to read as follows:

“(b) Whoever, without authority, wilfully transfers any price tag from goods or merchandise to other goods or merchandise having a higher selling price or marks said goods at a lower price or substitutes or superimposes thereon a false price tag and then presents said goods or merchandise for purchase shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than one hundred dollars (\$100.00) or by imprisonment for not more than six months or by both fine and imprisonment.

Nothing herein shall be construed to provide that the mere possession of goods or the production by shoppers of improperly priced merchandise for check-out shall constitute prima facie evidence of guilt."

Sec. 3. This act shall become effective on October 1, 1973.

In the General Assembly read three times and ratified, this the 11th day of May, 1973.

S. B. 208

CHAPTER 458

AN ACT TO AMEND G.S. 31-33 TO ALLOW NONRESIDENT PARTIES INTERESTED IN THE CAVEAT OF A WILL TO BE SERVED BY REGISTERED MAIL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 31-33 is hereby rewritten to read as follows:

"§ 31-33. *Bond given and cause transferred to trial docket.*—When a caveator shall have given bond with surety approved by the clerk, in the sum of two hundred dollars (\$200.00), payable to the propounder of the will, conditioned upon the payment of all costs which shall be adjudged against such caveator in the superior court or when a caveator shall have deposited money or given a mortgage in lieu of such bond, or shall have filed affidavits and satisfied the clerk of his inability to give such bond or otherwise secure such costs, the clerk shall transfer the cause to the superior court for trial. Such caveator shall cause notice of the caveat proceeding to be given to all devisees, legatees, or other persons in interest in the manner provided for service of process by G.S. 1A-1, Rule 4(j) and (k). The notice shall advise such devisees, legatees, or other persons in interest, of the session of superior court to which the proceeding has been transferred and shall call upon them to appear and make themselves proper parties to the proceeding if they so choose. At the session of court to which such proceeding is transferred, or as soon thereafter as motion to that effect shall be made by the propounder, and before trial, the judge shall require any of the devisees, legatees or other persons in interest so cited, either those who make themselves parties with the caveators or whose interests appear to him antagonistic to that of the propounders of the will, to align themselves and to file bond within such time as he shall direct and before trial. Upon the failure of any party to file such bond, the judge shall dismiss that party from the proceeding but that party shall be bound by the proceeding."

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective on and after October 1, 1973.

In the General Assembly read three times and ratified, this the 11th day of May, 1973.

S. B. 220

CHAPTER 459

AN ACT TO AMEND G.S. 45-12 REGARDING THE CLERK'S
CERTIFICATION OF TRUSTEE SUBSTITUTIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 45-12 is hereby rewritten to read as follows:

“§ 45-12. *Certificate by clerk of superior court.*—Whenever the powers set out in G.S. 45-10 shall be exercised, or whenever a trustee is substituted pursuant to the powers and according to the methods contained in any deed of trust, the clerk of the superior court shall certify that it has been made to appear to him that the paper-writing by which a trustee is substituted has been executed by the owner or owners of a majority in amount of the indebtedness, evidenced by the notes, bonds, or other instruments secured by said deed of trust, that the cause of substitution set forth therein is true, and that the substituted trustee is a fit and proper person or corporation to perform the duties of said trust. Unless such certificate is attached to or made a part of the paper-writing, and registered therewith, the purported substitution shall be invalid.”

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective on October 1, 1973.

In the General Assembly read three times and ratified, this the 11th day of May, 1973.

S. B. 225

CHAPTER 460

AN ACT TO AMEND G.S. 50-10 TO ALLOW DIVORCE ACTIONS TO BE
TRIED BY A JUDGE OR JURY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 50-10 is hereby rewritten to read as follows:

“§ 50-10. *Material facts found by judge or jury; parties cannot testify to adultery; procedure same as ordinary civil actions.*—The material facts in every complaint asking for a divorce or for an annulment shall be deemed to be denied by the defendant, whether the same shall be actually denied by pleading or not, and no judgment shall be given in favor of the plaintiff in any such complaint until such facts have been found by a judge or jury. The determination of whether there is to be a jury trial or a trial before the judge without a jury shall be made in accordance with G.S. 1A-1, Rules 38 and 39. On such trial neither the husband nor wife shall be a competent witness to prove the adultery of the other, nor shall the admissions of either party be received as evidence to prove such fact.”

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of May, 1973.

S. B. 353

CHAPTER 461

AN ACT TO REPEAL G.S. 148-52(e) PERTAINING TO POWERS OF STATE BOARD OF CORRECTION AND TRAINING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 148-52(e) is hereby repealed.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of May, 1973.

S. B. 845

CHAPTER 462

AN ACT TO CHANGE THE NAME OF EASTERN NORTH CAROLINA SANATORIUM TO EASTERN NORTH CAROLINA HOSPITAL AND OTHER PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. The title to Article 9, Chapter 131, as the same appears in Volume 3B of the General Statutes, is hereby rewritten to read:

“Eastern North Carolina Hospital.”

Sec. 2. The words “Eastern North Carolina Sanatorium for the Treatment of Tuberculosis” wherever the same appear in Article 9, Chapter 131, Volume 3B of the General Statutes, are hereby deleted and the following substituted in lieu thereof:

“Eastern North Carolina Hospital.”

Sec. 3. Article 9, Chapter 131, as the same appears in Volume 3B of the General Statutes, is hereby amended by adding a new section to read as follows:

“§ 131-78.1. *Treatment of related diseases.*—Eastern North Carolina Hospital, in addition to the power and authority vested in it for the treatment of persons afflicted with tuberculosis, is authorized to accept and treat patients afflicted with pulmonary and other chronic diseases to the same extent as it now accepts and treats persons afflicted with tuberculosis.”

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of May, 1973.

H. B. 125

CHAPTER 463

AN ACT TO AMEND G.S. 7A-278(1) TO INCREASE THE AGE TO WHICH AN “UNDISCIPLINED CHILD” IS SUBJECT TO THE JURISDICTION OF THE JUVENILE COURT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-278(1) is hereby amended by adding at the end thereof a new sentence to read as follows:

“Provided, that for the purposes of subdivision (5) of this section, ‘child’ is any person who has not reached his eighteenth birthday, and is not married, emancipated or a member of the armed forces of the United States.”

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of May, 1973.

H. B. 267

CHAPTER 464

AN ACT TO PROVIDE FOR THE ADMISSIBILITY OF DYING DECLARATIONS IN ALL CIVIL AND CRIMINAL ACTIONS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 8 of the General Statutes is hereby amended by inserting a new section to read as follows:

“§ 8-51.1. *Dying declarations.*—The dying declarations of a deceased person regarding the cause or circumstances of his death shall be admissible in evidence in all civil and criminal trials and other proceedings before courts, administrative agencies and other tribunals to the same extent and for the same purposes that they might have been admissible had the deceased survived and been sworn as a witness in the proceedings, subject to proof that:

(1) At the time of the making of such declaration the deceased was conscious of approaching death and believed there was no hope of recovery;

(2) Such declaration was voluntarily made.”

Sec. 2. G.S. 28-173 is hereby amended by deleting the second paragraph thereof which reads as follows:

“In all actions brought under this section the dying declarations of the deceased as to the cause of his death shall be admissible in evidence in like manner and under the same rules as dying declarations of the deceased in criminal actions for homicide are now received in evidence.”

Sec. 3. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 4. This act shall be in full force and effect on and after October 1, 1973.

In the General Assembly read three times and ratified, this the 11th day of May, 1973.

H. B. 294

CHAPTER 465

AN ACT TO AMEND G.S. 1B-3 TO PROVIDE FOR THE PRESERVATION OF CAUSES OF ACTION OF MINORS SETTLING WITH ONE OF TWO OR MORE TORT-FEASORS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1B-3(e) is hereby amended by adding at the end thereof the following language:

“Provided, however, that a consent judgment in a civil action brought on behalf of a minor, or other person under disability, for the sole purpose of obtaining court approval of a settlement between the injured minor or other person under disability and one of two or more tort-feasors, shall not be deemed to be a judgment as that term is used herein, but shall be treated as a release or covenant not to sue as those terms are used in G.S. 1B-4.”

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective on and after October 1, 1973, but shall not apply to any judgment entered prior to October 1, 1973.

In the General Assembly read three times and ratified, this the 11th day of May, 1973.

H. B. 407

CHAPTER 466

AN ACT TO PROTECT BABY ANIMALS SOLD AS PETS BY
REQUIRING THAT THEY BE AT LEAST EIGHT WEEKS OF AGE
BEFORE SALE.

The General Assembly of North Carolina enacts:

Section 1. Article 47 of Chapter 14 of the General Statutes is hereby amended by adding at the end thereof a new section to read as follows:

“§ 14-363.1. *Living baby chicks or other fowl, or rabbits under eight weeks of age; disposing of as pets or novelties forbidden.*—If any person, firm or corporation shall sell, or offer for sale, barter or give away as premiums living baby chicks, ducklings, or other fowl or rabbits under eight weeks of age as pets or novelties, such person, firm or corporation shall be guilty of a misdemeanor punishable by a fine not to exceed one hundred dollars (\$100.00) or imprisonment for not more than 30 days, or both. Provided, that nothing contained in this section shall be construed to prohibit the sale of non-domesticated species of chicks, ducklings, or other fowl, or of other fowl from proper brooder facilities by hatcheries or stores engaged in the business of selling them for purposes other than for pets or novelties.”

Sec. 2. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 11th day of May, 1973.

S. B. 219

CHAPTER 467

AN ACT TO ALLOW THE STATE TO APPEAL ADVERSE JUDGMENTS
BASED UPON DOUBLE JEOPARDY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15-179 is hereby amended by adding a new subdivision (7) at the end thereof to read as follows:

“(7) Upon a motion to bar prosecution based on the prohibition against double jeopardy.”

Sec. 2. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 14th day of May, 1973.

S. B. 254

CHAPTER 468

AN ACT TO PROVIDE A TWO THOUSAND DOLLAR (\$2,000) INCOME
TAX EXEMPTION FOR A PARENT OR GUARDIAN OF A SEVERELY
RETARDED PERSON.

The General Assembly of North Carolina enacts:

Section 1. Division II of Article 4 of Chapter 105 of the General Statutes is hereby amended by adding a new subdivision G.S. 105-149(a)10 to read as follows:

“§ 105-149(a)10. In the case of each severely retarded person over half of whose support for the taxable year has been provided by a parent or guardian, there shall be allowed an exemption of two thousand dollars (\$2,000) in addition to all other exemptions allowed by this subsection. For the purposes of

this subdivision, 'severely retarded' shall mean a person whose intelligence quotient falls below forty (40)."

Sec. 2. In order to qualify for such exemption the parents or guardian of said persons shall provide the Department of Revenue with a statement verifying the condition of said persons from any doctor or psychiatrist.

Sec. 3. This act shall be effective for taxable years beginning on and after January 1, 1973.

In the General Assembly read three times and ratified, this the 14th day of May, 1973.

S. B. 283

CHAPTER 469

AN ACT TO AMEND CHAPTER 55 AND THE RELATED PROVISIONS OF THE GENERAL STATUTES RELATING TO BUSINESS CORPORATIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 55-3(a) is hereby amended by deleting from the fifth line thereof the word "unless" and inserting in lieu thereof the words "except to the extent that".

Sec. 2. G.S. 55-7(3) is hereby rewritten to read as follows:

"(3) The purpose or purposes for which the corporation is organized. It shall be sufficient to state, either alone or with other purposes, that the purpose for which the corporation is organized is to engage in any lawful act or activity for which corporations may be organized under this Chapter; and by such statement all lawful acts and activities for corporations organized under this Chapter shall be within the purposes of the corporation, subject to any express limitations."

Sec. 3. G.S. 55-14(c) is hereby amended to read as follows:

"(c) If the statement purporting to effectuate such changes is not recorded in all the offices wherein recording is required by this section, persons asserting claims against the corporation may treat as the registered agent or registered office of the corporation either the one newly designated in the statement or the preexisting one."

Sec. 4. G.S. 55-16(a)(2) is hereby amended to read as follows:

"(2) Any bylaw changing the statutory requirement for a quorum of directors or action by directors, as permitted by G.S. 55-28(d), or changing the statutory requirement for a quorum of shareholders or action by shareholders, as permitted by G.S. 55-65 and G.S. 55-66, may be adopted only by the shareholders, and any such bylaw can itself be amended or repealed only by the shareholders acting pursuant to any different quorum and greater vote so prescribed;".

Sec. 5. G.S. 55-19(d) is hereby amended by inserting in the last line thereof, immediately following the word "section," the words "or in G.S. 55-20 or G.S. 55-21," so that G.S. 55-19(d) reads as follows:

"(d) Expenses incurred by a director, officer, employee or agent in defending a civil or criminal action, suit or proceeding may be paid by the corporation in advance of the final disposition of such action, suit or proceeding as authorized by the board of directors in the specific case upon receipt of an undertaking by or on behalf of the director, officer, employee or agent to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the corporation as authorized in this section or in G.S. 55-20 or G.S. 55-21."

Sec. 6. G.S. 55-20(a) is hereby amended as follows:

(1) By deleting from the first and second lines thereof the words "because of his duties or activities while" and inserting in lieu thereof the words "by reason of the fact that he is or was";

(2) By rewriting subdivision (3) b. to read as follows:

"(3)b. A majority of a quorum consisting of directors who are not parties to such action, suit or proceeding shall determine that such person acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful, and the corporation shall, not later than 60 days before any such payment or agreement to pay is made, send to all shareholders of record on a record date not more than 10 days prior to the date of mailing, at their registered addresses, a statement specifying the persons to be paid, the amounts to be paid, and the nature and status of the suit or proceedings at the time of mailing."

(3) By inserting in the fourth line of subdivision (3)c. thereof, immediately following the words "to be in", the words "or not opposed to".

Sec. 7. G.S. 55-27(f) is hereby amended by deleting from the first line thereof the words "Unless the charter or the bylaws otherwise provide," and inserting in place thereof the words "Unless otherwise provided in the charter or a bylaw adopted by the shareholders," so that G.S. 55-27(f) reads as follows:

"(f) Unless otherwise provided in the charter or a bylaw adopted by the shareholders, the entire board of directors or any individual director may be removed from office with or without cause by a vote of shareholders holding a majority of the outstanding shares entitled to vote at an election of directors. However, unless the entire board is removed, an individual director shall not be removed when the number of shares voting against the proposal for removal would be sufficient to elect a director if such shares could be voted cumulatively at an annual election. If any or all directors are so removed, new directors may be elected at the same meeting. Whenever a class or series of shares is entitled to elect one or more directors under authority granted by the charter the provisions of this subsection apply to the vote of that class or series as to those directors and not to the vote of the outstanding shares as a whole."

Sec. 8. G.S. 55-28(d) is hereby amended to read as follows:

"(d) A majority of the number of directors fixed by the charter or bylaws shall constitute a quorum for the transaction of business unless a greater number is required by the charter or a bylaw adopted by the shareholders. The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the board of directors, unless the act of a greater number is required by this Chapter, the charter or a bylaw adopted by the shareholders."

Sec. 9. The first two lines of G.S. 55-29(a) are hereby amended to read as follows:

"(a) Action taken by the required majority of the directors or members of a committee without a meeting is nevertheless board or committee action if:"

Sec. 10. G.S. 55-29 is hereby amended by rewriting the catchline to read as follows: "*Informal or irregular action by directors or committees; attendance by telephone.*" and by adding a new subsection (c) at the end thereof to read as follows:

"(c) Unless otherwise provided in the charter or bylaws, any one or more directors or members of a committee may participate in a meeting of the board

or committee by means of a conference telephone or similar communications device which allows all persons participating in the meeting to hear each other, and such participation in a meeting shall be deemed presence in person at such meeting.”

Sec. 11. G.S. 55-38(a) is hereby amended to read as follows:

“(a) For the purpose of this section, a qualified shareholder is a person, natural or corporate, who shall have been a shareholder of record in a corporation, domestic or foreign, for at least six months immediately preceding his demand or who shall be the holder of record of at least five percent (5%) of its outstanding shares of any class, and the term shareholder includes a holder of a voting trust certificate to the extent of the shares represented by said certificate; provided that the personal representative of the estate of a deceased holder, or the guardian, committee, trustee or conservator of the estate of a ward, incompetent or missing person who is a holder, or a trustee in bankruptcy of a holder, or a receiver or liquidator of the estate or affairs of a holder, shall be deemed to be a qualified shareholder regardless of the period of time he has been a shareholder of record or the number of shares held by him.”

Sec. 12. Chapter 55 of the General Statutes is hereby amended by inserting a new section G.S. 55-39.1 to read as follows:

“§ 55-39.1. *Shareholders' derivative actions.*—(a) An action may be brought in this State in the right of any domestic or foreign corporation by a shareholder or holder of a beneficial interest in shares of such corporation; provided that the plaintiff or plaintiffs must allege, and it must appear that each plaintiff was a shareholder or holder of a beneficial interest in such shares at the time of the transaction of which he complains or that his shares or beneficial interest in such shares devolved upon him by operation of law from a person who was a shareholder or holder of a beneficial interest in such shares at such time.

(b) The complaint shall allege with particularity the efforts, if any, made by the plaintiff to obtain the action he desires from the directors or comparable authority and the reasons for his failure to obtain the action or for not making the effort.

(c) Such action shall not be discontinued, dismissed, compromised or settled without the approval of the court. If the court shall determine that the interest of the shareholders or any class or classes thereof, or of the creditors of the corporation, will be substantially affected by such discontinuance, dismissal, compromise or settlement, the court, in its discretion, may direct that notice, by publication or otherwise, shall be given to such shareholders or creditors whose interests it determines will be so affected. If notice is so directed to be given, the court may determine which one or more of the parties to the action shall bear the expense of giving the same, in such amount as the court shall determine and find to be reasonable in the circumstances, and the amount of such expense shall be awarded as costs of the action.

(d) If the action on behalf of the corporation is successful, in whole or part, whether by means of a compromise and settlement or by a judgment, the court may award the plaintiff the reasonable expenses of maintaining the action, including reasonable attorneys' fees, and shall direct the plaintiff to account to the corporation for the remainder of any proceeds of the action.

(e) In any such action the court, upon final judgment and a finding that the action was brought without reasonable cause, may require the plaintiff or

plaintiffs to pay to the defendant or defendants the reasonable expenses, including attorneys' fees, incurred by them in the defense of the action."

Sec. 13. Chapter 55 of the General Statutes is hereby amended by inserting a new section G.S. 55-39.2 to read as follows:

"§ 55-39.2. *Appointment of provisional director.*—(a) If the directors of a corporation are deadlocked in the management of the corporate affairs and the shareholders are unable to break the deadlock, and if injury to the corporation is being suffered or is threatened by reason thereof, the superior court of the county where the registered office of the corporation is located may, notwithstanding any provisions of the charter or bylaws of the corporation and whether or not an action is pending for an involuntary dissolution of the corporation, appoint a provisional director pursuant to this section.

(b) Action for such appointment may be filed by not less than one-half of the directors or by the holders of not less than one-third of the total outstanding shares of the corporation regardless of voting rights. Notice of such action shall be served upon the directors (other than those who have filed the action) and upon the corporation in the manner provided by law for service of a summons and complaint, and a hearing shall be held not less than 10 days after such service is effected. At such hearing all interested persons shall be given an opportunity to be heard.

(c) The provisional director shall be an impartial person, who is neither a shareholder nor a creditor of the corporation, nor related by blood or marriage to any of the other directors of the corporation, or to any judge of the court by which he is appointed. The provisional director shall have all the rights and powers of a director, and shall be entitled to notice of the meetings of the board of directors and to vote at such meetings, until he is removed by order of the court or by vote or written consent of the holders of a majority of the voting shares or holders of such higher number of voting shares as may be required under the charter or the bylaws for the election of directors. He shall be entitled to receive such compensation as may be agreed upon between him and the corporation, and in the absence of such agreement he shall be entitled to such compensation as shall be fixed by the court."

Sec. 14. G.S. 55-45(c) is hereby repealed.

Sec. 15. G.S. 55-46(b) is hereby amended by deleting from the fifth line thereof the words "such a person a shareholder" and inserting in lieu thereof the word "payment".

Sec. 16. G.S. 55-47(b)(2) is hereby amended by inserting in the fifth line thereof, immediately following the word "surplus", the words "and such portion thereof as may be entered as earned surplus as permitted by G.S. 55-49(k)".

Sec. 17. G.S. 55-49(k) is hereby amended as follows:

(1) By placing a comma (,) after the word "merged" in line one thereof;

(2) By inserting, after the word "all" in line two, the words "or substantially all"; and

(3) By inserting, before the word "assets" in line two, the words "outstanding shares or".

Sec. 18. G.S. 55-50(d) is hereby amended to read as follows:

"(d) Subject to any provisions contained in its charter, for the purpose of paying a dividend out of earned surplus or net profits as permitted by subsection (a) of this section, a corporation engaged in the business of exploiting natural resources, patents, copyrights, leaseholds, and other assets wasting in a similar

manner, or engaged primarily in the liquidation of specific assets, may compute its earned surplus or net profits derived from such exploitation or liquidation without taking into consideration the depletion or amortization of such assets resulting from lapse of time or from consumption, liquidation, or exploitation of such assets. If a dividend is paid from a source so computed, the corporation shall make the disclosure required by subsection (g) of this section."

Sec. 19. G.S. 55-50(f) is hereby amended by deleting from the third line thereof the words "otherwise provided in the charter or subscription agreement" and inserting in lieu thereof the words "the charter or subscription agreement provides for lesser dividend payments".

Sec. 20. Chapter 55 of the General Statutes is hereby amended by inserting a new subsection to be numbered G.S. 55-50 (i) to read as follows:

"(i) As used in this subsection, net profits shall mean such net profits as can lawfully be paid in dividends to a particular class of shares after making allowance for the prior claims of shares, if any, entitled to preference in the payment of dividends, but in the determination of such profits the provisions of subsection (d) of this section shall not apply. If during its immediately preceding fiscal period a corporation having less than twenty-five shareholders on the final day of said period has not paid to any class of shares dividends in cash or property amounting to at least one-third of the net profits of said period allocable to that class, the holder or holders of twenty percent (20%) or more of the shares of that class may, within four months after the close of said period, make written demand upon the corporation for the payment of additional dividends for that period. After a corporation has received such a demand, the directors shall, during the then current fiscal period or within three months after the close thereof, either (1) cause dividends in cash or property to be paid to the shareholders of that class in an amount equal to the difference between the dividends paid in said preceding fiscal period to shareholders of that class and one-third of the net profits of said period allocable to that class, or in such lesser amount as may be demanded, or (2) give notice pursuant to subsection (j) of this section to all shareholders making such demand. A corporation shall not, however, be required to pay dividends pursuant to such demand insofar as (1) such payment would exceed fifty percent (50%) of the net profits of the current fiscal period in which such demand is made, or (2) insofar as the net profits are being retained to eliminate a deficit, or (3) insofar as the directors of the corporation can show that its earnings are being retained to meet the reasonable anticipated needs of the business and that such retention of earnings is not inequitable in light of all the circumstances. Upon receipt of such a demand a corporation may elect to treat any dividend previously paid in the current fiscal period as having been paid in the preceding fiscal period, in which event the corporation shall so notify all shareholders. If a dividend is paid in satisfaction of a demand made in accordance with this subsection it shall be deemed to have been paid in the period for which it was demanded, and all shareholders shall be so informed concurrently with such payment.

(j) Upon receipt of a demand from the holders of twenty percent (20%) or more of the shares of any class of shares pursuant to subsection (i) of this section, the corporation receiving such demand may, during the then fiscal period or within three months after the close thereof, given written notice to each shareholder making such written demand that the corporation elects to redeem all share held by such shareholder in lieu of the payment of dividends as

provided in subsection (i) of this section and shall pay to such shareholder the fair value of his shares as of the day preceding the mailing or otherwise reasonably dispatching of the notice. A shareholder receiving such notice shall thereafter be entitled to receive the fair value of his shares, subject only to the surrender by him of his certificate representing his shares and to the provisions of G.S. 55-52, which value shall be determined and paid as follows:

(1) If within 30 days after the date upon which a shareholder becomes entitled to payment for his shares under this subsection, the value of the shares is agreed upon between the shareholder and the corporation, payment therefor shall be made within 60 days after the agreement, upon surrender of the certificate representing the shares, whereupon the shareholder shall cease to have any interest in such shares or in the corporation.

(2) If within the such 30-day period the shareholder and the corporation do not agree as to the value of the shares, the shareholder may, within 60 days after the expiration of the 30-day period, file a petition in the superior court of the county of the registered office of the corporation asking for the appointment by the clerk of three qualified and disinterested appraisers to appraise the fair value of the shares. A summons as in other cases of special proceedings, together with a copy of the petition, shall be served on the corporation at least 10 days prior to the hearing of the petition by the court. The award of appraisers, or a majority of them, if no exceptions be filed thereto within 10 days after the award shall have been filed in court, shall be confirmed by the court, and when confirmed shall be final and conclusive, and the shareholder upon depositing the proper share certificates in court, shall be entitled to judgment against the corporation for the appraised value thereof as of the date prescribed in this section, together with interest thereon to the date of such confirmation. If either party files exceptions to such award within 10 days after the award shall have been filed in court, the case shall be transferred to the civil issue docket of the superior court for trial during term and shall be there tried in the same manner, as near as may be practicable, as is provided in Chapter 40 for the trial of cases under the eminent domain law of this State, and with the same right of appeal as is permitted in said chapter. The court shall assess the cost of said proceedings as it shall deem equitable. Upon payment of the judgment the shareholder shall cease to have any interest in the shares or in the corporation and the corporation shall be entitled to have said share certificates surrendered to it by the clerk of court for cancellation. Unless the shareholder shall file such petition within the time herein prescribed, he and all persons claiming under him shall have no right of payment hereunder but in that event nothing herein shall impair his status as shareholder.

Shares acquired by a corporation pursuant to payment of the agreed value thereof or to payment of the judgment entered therefor, as in this subsection provided, may be held and disposed of by the corporation as in the case of other treasury shares."

Subsection (j) of G.S. 55-50 is hereby renumbered (k).

Subsection (k) of G.S. 55-50 is hereby renumbered (l).

Sec. 21. G.S. 55-65(a) is hereby amended by deleting from the second line thereof the word "bylaws" and inserting in place thereof the words "a bylaw" so that G.S. 55-65(a) reads as follows:

"(a) Unless otherwise provided in this Chapter or in the charter or in a bylaw adopted by the shareholders, a majority of the shares entitled to vote,

represented in person or by proxy, shall constitute a quorum at a meeting of shareholders, but in no event shall a quorum consist of less than one-third of the outstanding shares entitled to vote."

Sec. 22. G.S. 55-66 is hereby amended by deleting from the fifth line thereof the word "bylaws" and inserting in place thereof the words "a bylaw"; and by inserting in the seventh line thereof, immediately following the word "charter," the words "or a bylaw adopted by its shareholders"; and by adding at the end thereof a new subsection (c) so that G.S. 55-66 reads as follows:

"§ 55-66. *Votes required.*—(a) A majority of the shares voted at a meeting of shareholders, duly held and at which a quorum is present, shall be sufficient to take or authorize action upon any matter which may properly come before the meeting, unless more than a majority is required by this Chapter or by the charter or a bylaw adopted by the shareholders.

(b) Except where other provisions of this Chapter expressly make this subsection inapplicable, any corporation may by its charter or a bylaw adopted by its shareholders require for any purpose the concurrence of a greater proportion of the votes of any class or classes of shares than required by this Chapter for such purpose.

(c) Any provision in the charter or bylaws prescribing the vote required for any purpose as permitted by this section may not itself be amended by a vote less than the vote therein prescribed."

Sec. 23. G.S. 55-68(b) is hereby amended to read as follows:

"(b) A proxy is not valid after the expiration of 11 months from the date of its execution unless the person executing it specifies therein the length of time for which it is to continue in force, or limits its use to a particular meeting, but no proxy, whether or not designated as irrevocable as permitted by subsection (g) of this section, shall be valid after 10 years from the date of its execution, unless renewed or extended at any time before its expiration for not more than 10 years from the date of such renewal or extension."

Sec. 24. G.S. 55-68(c) is hereby amended to read as follows:

"(c) Any proxy duly executed is not revoked, and continues in full force and effect, until an instrument revoking it, or a duly executed proxy bearing a later date, is filed with the secretary of the corporation. A proxy is not revoked by the death or incapacity of the maker unless, before the vote is counted or the authority is exercised, written notice of the death or incapacity is given to the corporation. Notwithstanding that a valid proxy is outstanding the powers of the proxy holder are suspended, except in the case of a valid proxy which is designated as irrevocable as permitted by subsection (g) of this section, if the person executing the proxy is present at the meeting and elects to vote in person."

Sec. 25. G.S. 55-68 is hereby amended by adding at the end thereof three new subsections to read as follows:

"(f) A proxy shall be irrevocable only when it clearly indicates that it is to be irrevocable and is held by any of the following or by a nominee of any of the following:

- (1) a pledgee of the shares which are the subject of the proxy; or
- (2) a person who has purchased or contracted to purchase the shares which are the subject of the proxy; or
- (3) a creditor or creditors of the corporation who extend or continue credit to the corporation in consideration of a proxy, if such proxy specifically

states that it was given in consideration of such extension or continuation of credit, and sets forth the amount of, and the name of the person extending or continuing, credit; or

- (4) a person who has contracted to perform services for the corporation under a contract which requires a proxy, if the proxy states that it was given in consideration of the contract, the name of the person, and the period of the contract; or
- (5) a person, including an arbitrator, designated by or under a shareholders' agreement permitted by G.S. 55-73.

Any such proxy shall become revocable after the pledge is redeemed, or the contract of purchase has been performed and the purchaser has become a shareholder of record, or the debt of the corporation is paid, or the period of the contract has been terminated, or the agreement permitted by G.S. 55-73 has terminated.

(g) A proxy may be revoked, notwithstanding a provision making it irrevocable, by a purchaser of shares without knowledge of the existence of such provision, unless notice of the proxy and of its irrevocability plainly appears on the face or back of the certificate representing such shares.

(h) The foregoing provisions shall be applicable to proxies given by the holders of a corporation's bonds, debentures or other obligations where a right to vote is conferred upon such holders by the charter as permitted by G.S. 55-44.1."

Sec. 26. G.S. 55-72(c) is hereby amended by adding a new sentence at the end thereof so that G.S. 55-72(c) reads as follows:

"(c) Notwithstanding the provisions of this section or of G.S. 55-59, the holders of record of the voting trust certificates shall have the same rights as if they were shareholders of record with respect to voting upon any amendment of the charter, amendment of the bylaws, reduction of stated capital, sale of the entire assets, merger, consolidation or dissolution. For this purpose the trustees, upon timely and adequate information and requests from the corporation, shall prepare and furnish the corporation with a list of the trust certificate holders, which shall conform substantially to the requirements of this Chapter relating to voting lists of shareholders, and the corporation shall send all proper notices, maintain and make available the said list for inspection and make all appropriate arrangements to permit the trust certificate holders to vote in person or by proxy at the meeting in question as if they were shareholders of record. This subsection (c) shall not apply to any voting trust initially created on or after October 1, 1973; and any voting trust created before that date may be amended by unanimous consent of the holders of record of the voting trust certificates to provide that this subsection (c) shall not thereafter be applicable to such voting trust."

Sec. 27. G.S. 55-72(d) is hereby amended to read as follows:

"(d) The trustee or trustees under a voting trust agreement shall, except to the extent otherwise provided by the agreement or subsection (c) of this section, have the right to vote upon and exercise any rights of dissent with respect to any charter amendment, merger, consolidation, dissolution, sale of assets or reduction of stated capital of the corporation."

Sec. 28. G.S. 55-72 is hereby amended by adding at the end thereof two new subsections (e) and (f) to read as follows:

“(e) At any time before the expiration of a voting trust agreement as originally created or as extended under this subsection, one or more holders of voting trust certificates may, by agreement in writing, extend the duration of such agreement, nominating the same or substitute trustee or trustees, for an additional period not to exceed 10 years from the date of such expiration. Such extension agreement shall not affect the rights or obligations of persons not parties to the extension agreement, and such persons shall be entitled to remove their shares from the trust upon the expiration of the voting trust agreement and promptly to have their share certificates reissued to them. The extension agreement shall comply with all provisions of this section applicable to the original voting trust agreement.

(f) The validity of a voting trust agreement, otherwise lawful, shall not be affected during a period of 10 years from the date of its creation or extension by the fact that by its terms it will or may last beyond such ten-year period.”

Sec. 29. G.S. 55-73(a) is hereby amended to read as follows:

“(a) An agreement between two or more shareholders, if in writing and signed by the parties thereto, may provide that in the exercise of any voting rights of shares held by the parties, including any vote with respect to directors, such shares shall be voted as provided by the agreement, or as the parties may agree, or as determined in accordance with any procedure (including arbitration) specified in the agreement. Such agreement shall be valid and enforceable as between the parties thereto for a period not to exceed 10 years from the date of its execution; and in an action by a shareholder who is a party to such an agreement a court of competent jurisdiction may enjoin another party or parties to the agreement from voting his or their shares in violation thereof, or, if the corporation is made a party to the action, may set aside an election of directors or other action resulting from the voting of shares in violation of the agreement, and may grant such other or further relief as may appear appropriate under the circumstances for the enforcement of the agreement. Such agreement may be extended or renewed in like manner as a voting trust may be extended or renewed as provided by G.S. 55-72(d). Nothing herein shall impair the privilege of the corporation to treat the shareholders of record as entitled to vote the shares standing in their names, as provided in G.S. 55-59 nor impair the power of a court to determine voting rights as provided in G.S. 55-71.”

Sec. 30. G.S. 55-100(b)(3) is hereby amended by rewriting the last sentence and adding a new sentence at the end thereof so that G.S. 55-100(b)(3) reads as follows:

“(3) At such meeting a vote of the shareholders entitled to vote thereon shall be taken on the proposed amendment. The proposed amendment shall be adopted upon receiving the affirmative vote of the holders of at least a majority of all the outstanding shares entitled to vote thereon, unless any class of shares is entitled to vote thereon as a class, in which event the proposed amendment shall be adopted upon receiving the affirmative vote of the holders of at least a majority of all the outstanding shares of each class of shares entitled to vote thereon as a class and a majority of all the other outstanding shares entitled to vote thereon. If the charter prescribes a different quorum or requires more than the majority vote herein prescribed, either for all amendments or for a specific amendment, such charter provision can itself be amended or repealed only by the shareholders acting pursuant to any different quorum and greater vote so prescribed. An amendment to the charter which adds a provision for liquidation

or dissolution of the corporation as permitted by G.S. 55-125(a)(3), or which changes or repeals such a provision, must be approved by the affirmative vote of the holders of all the outstanding shares of the corporation, whether or not otherwise entitled to vote, or by the holders of such lesser number of shares, but not less than the number required for a regular charter amendment, as may be specifically provided in the charter for adding, changing or repealing such a provision."

Sec. 31. G.S. 55-106 is hereby amended to read as follows:

"§ 55-106. *Procedure for merger.*—(a) One or more domestic corporations may merge into another corporation, hereinafter designated as the surviving corporation, pursuant to a plan of merger approved in the manner provided in this Chapter. All corporations which are parties to such merger are hereinafter designated collectively as the constituent corporations.

(b) The board of directors of each constituent corporation shall by resolution adopted by each such board, approve a plan of merger setting forth:

- (1) The name of each constituent corporation, and a designation of which constituent corporation is to be the surviving corporation.
- (2) The name which the surviving corporation is to have after the merger, which name may be that of any of the constituent corporations or any other available name permitted by this Chapter.
- (3) The terms and conditions of the proposed merger.
- (4) The manner and basis of converting the shares of each of the constituent corporations into shares or other securities or obligations of the surviving corporation, and, if any shares of any of the constituent corporations are not to be converted solely into shares or other securities or obligations of the surviving corporation, the cash, property, rights or shares or other securities or obligations of any other corporation which the holders of such shares are entitled to receive in exchange for such shares or upon their conversion and the surrender of the certificates evidencing such shares, which cash, property, rights or shares or other securities or obligations of any other corporation may be in addition to or in lieu of the shares or securities or obligations of the surviving corporation; or, if any constituent corporation is the wholly-owned subsidiary of the surviving corporation and no cash or shares or other securities or obligations will be distributed or issued upon conversion or cancellation of the shares of any such constituent corporation, a statement to that effect.
- (5) A statement of any changes in the charter of the surviving corporation to be effected by such merger.
- (6) Such other provisions not inconsistent with law as are deemed necessary or desirable."

Sec. 32. G.S. 55-107(b)(3) is hereby amended to read as follows:

"(3) The manner and basis of converting the shares of each corporation into shares or other securities or obligations of the new corporation, and, if any shares of any consolidating corporation are not to be converted solely into shares or other securities or obligations of the new corporation, the cash, property, rights or shares or other securities or obligations of any other corporation which the holders of such shares are entitled to receive in exchange for such shares or upon their conversion and the surrender of the certificates evidencing such shares, which cash, property, rights or shares or other securities or obligations of

any other corporation may be in addition to or in lieu of the shares or securities or obligations of the new corporation.”

Sec. 33. G.S. 55-108.1 is hereby amended to read as follows:

“§ 55-108.1. *Mergers without approval of the shareholders of the surviving corporation.*—(a) Unless otherwise provided in the charter or bylaws, no approval by shareholders of the surviving corporation shall be required for a merger if at the time of approval of the plan of merger by the board of directors of each of the corporations, domestic or foreign, who are parties thereto, the surviving corporation is the owner of all the outstanding shares of the other corporation, or corporations, domestic or foreign, who are parties to the merger, and the plan of merger does not provide for any changes in the charter of, or the issuance of any shares by, the surviving corporation.

(b) Unless otherwise provided in the charter or bylaws, no approval by shareholders of the surviving corporation shall be required for a merger if (1) the plan of merger does not provide for any changes in the charter of the surviving corporation, (2) each share of the surviving corporation outstanding immediately prior to the merger becoming effective shall remain outstanding immediately after the merger as an identical share of the surviving corporation, and (3) either no common shares of the surviving corporation and no shares, securities or obligations convertible into common shares are to be issued or delivered under the plan of merger, or the authorized unissued common shares or the treasury common shares of the surviving corporation to be issued or delivered under the plan of merger plus those initially issuable upon conversion of any other shares, securities or obligations to be issued or delivered under such plan do not exceed twenty percent (20%) of the common shares of the surviving corporation outstanding immediately prior to the effective date of the merger.

(c) In case of a merger under the provisions of this section, the articles of merger shall contain statements showing compliance with the conditions of this section, and, in lieu of statements required by G.S. 55-109(b) relating to the outstanding shares and the vote of shareholders of the surviving corporation, need only state the approval by its board of directors.”

Sec. 34. G.S. 55-109(a) is hereby amended to read as follows:

“(a) After the approval by the directors and shareholders to the extent required by G.S. 55-108 and G.S. 55-108.1, articles of merger or of consolidation shall be executed by each corporation and be filed as provided in G.S. 55-4, except that a copy thereof certified by the Secretary of State shall also be recorded in the office of the register of deeds of each county wherein the constituent corporations have their registered offices. Certificates of merger or consolidation shall also be registered as provided in G.S. 47-18.1.”

Sec. 35. G.S. 55-111(c) is hereby amended to read as follows:

“(c) If the surviving or new corporation, as the case may be, is a corporation of any state other than this State, it shall comply with the provisions of this Chapter with respect to foreign corporations if it is to transact business in this State; and, if after the merger or consolidation it transacts no business in this State, the courts of this State shall have jurisdiction in actions to enforce any obligation of any constituent corporation of this State arising out of the merger or consolidation or out of any act or omission of such constituent corporation prior to or contemporaneous with the merger or consolidation, and process therein may be served as provided in G.S. 55-146 or G.S. 55-146.1.”

Sec. 36. G.S. 55-113(e) is hereby amended by deleting from the twentieth line thereof the words "to the Supreme Court".

Sec. 37. G.S. 55-113(i) is hereby amended by adding at the end thereof a new sentence so that G.S. 55-113(i) reads as follows:

"(i) The provisions of this section shall not apply to a merger if on the date of the filing of the articles of merger the surviving corporation is the owner of all the outstanding shares of the other corporation or corporations, domestic or foreign, participating in the merger and if such merger makes no changes in the relative rights of the shareholders of the surviving corporation. The provisions of this section shall also not apply to the shareholders of the surviving corporation if their approval of the merger is not required, as provided in G.S. 55-108.1(b)."

Sec. 38. Chapter 55 of the General Statutes is hereby amended by inserting therein a new section G.S. 55-113.1 to read as follows:

"§ 55-113.1. *Fundamental changes in reorganization proceedings.*—(a) Whenever a plan of reorganization of a corporation has been or shall be confirmed by decree or order of a court of competent jurisdiction in proceedings for the reorganization of such corporation pursuant to the provisions of any applicable statute of the United States relating to reorganizations of corporations, the corporation may put into effect and carry out such plan and the decrees and orders of the court relative thereto and may take any proceeding and do any act provided in such plan or directed by such decrees and orders without further action by its directors or shareholders. Such action may be taken, as may be directed by such decrees or orders, by the trustee or trustees of such corporation appointed in the reorganization proceedings, or by designated officers of the corporation, or by a master or other representative appointed by the court, with like effect as if taken by unanimous action of the directors and shareholders of the corporation. In particular and without limiting the generality or effect of the foregoing, such corporation may:

- (1) Amend its charter or bylaws, or both, so long as the charter and bylaws as amended contain only such provisions as might be lawfully contained therein at the time of making such amendment;
- (2) Constitute or reconstitute and classify or reclassify its board of directors, and name, constitute or appoint directors and officers in place of or in addition to all or any of the directors or officers then in office;
- (3) Make any change in its stated capital or surplus or in any or all of its outstanding shares or other securities, or cancel any or all of such outstanding shares or other securities;
- (4) Dissolve and liquidate;
- (5) Merge or consolidate;
- (6) Transfer all or part of its assets;
- (7) Change its registered office or registered agent, or both;
- (8) Authorize the issuance of bonds, debentures or other obligations of the corporation, whether or not convertible into shares of any class or bearing warrants or other evidences of optional rights to purchase or subscribe for shares of any class, and fix the terms and conditions thereof.

(b) Any articles of amendment, statement of classification of shares, statement of change of registered office and registered agent, certificate of reduction of capital, restated charter, articles of merger, articles of

consolidation, articles of dissolution, statement of revocation of dissolution, certificate of completed liquidation, or any other document appropriate to complete any action permitted by this section shall be executed and filed in accordance with the provisions of this Chapter on behalf of the corporation by such person or persons as may be authorized to take such action pursuant to subsection (a).

(c) No action taken under this section shall give rise to any rights under G.S. 55-113, except as provided in the plan of reorganization.

(d) No action authorized by this section shall be taken after the entry of a final decree in the reorganization proceedings closing the case and discharging the trustee or trustees, if any."

Sec. 39. G.S. 55-114(a) (1) is hereby amended to read as follows:

"(1) Upon expiration of any period of duration to which the corporation is limited by its charter, by executing and filing in the office of the Secretary of State in accordance with the provisions of G.S. 55-4 articles of dissolution setting forth (i) the name of the corporation, (ii) the names and respective addresses of its officers and directors, and (iii) a statement of the expiration date presently contained in its charter."

Sec. 40. G.S. 55-114(a) (3) is hereby amended by placing a semicolon following the reference to G.S. 55-125 in the fourth line thereof and by deleting the balance of lines 4 and 5 thereof so that G.S. 55-114(a) (3) reads as follows:

"(3) By entry of a decree of dissolution by the superior court in involuntary proceedings for dissolution by the Attorney General, as prescribed in G.S. 55-122, or in proceedings to liquidate the assets and business of the corporation, as described in G.S. 55-125."

Sec. 41. Chapter 55 of the General Statutes is hereby amended by adding a new section G.S. 55-125.1 to read as follows:

"§ 55-125.1. *Discretion of court to grant relief other than dissolution.*—(a) In any action filed by a shareholder to dissolve the corporation under G.S. 55-125(a), the court may make such order or grant such relief, other than dissolution, as in its discretion it deems appropriate, including, without limitation, an order:

- (1) canceling or altering any provision contained in the charter or the bylaws of the corporation; or
- (2) canceling, altering, or enjoining any resolution or other act of the corporation; or
- (3) directing or prohibiting any act of the corporation or of shareholders, directors, officers or other persons party to the action; or
- (4) providing for the purchase at their fair value of shares of any shareholder, either by the corporation or by other shareholders, such fair value to be determined in accordance with such procedures as the court may provide.

(b) Such relief may be granted as an alternative to a decree of dissolution, or may be granted whenever the circumstances of the case are such that relief, but not dissolution, would be appropriate."

Sec. 42. G.S. 55-129 is hereby amended and rewritten to read as follows:

"§ 55-129. *Duties of officials as to decrees and orders concerning dissolution or charter amendment.*—A court decree effecting or canceling a dissolution of a corporation or canceling or altering any provision contained in its charter, or a court order declaring liquidation completed shall contain a direction to the clerk

of that court promptly to file one certified copy of such decree or order with the Secretary of State and also to file a certified copy thereof with the register of deeds of the county wherein the corporation has its registered office. The fees for the preparation, certificates, and filing of such decree or order shall be taxed as a part of the costs in the action. The register of deeds shall record and index the order or decree in the Record of Incorporations; promptly after the recordation, the register shall note the fact of recordation on the said copy and return it to the corporation or its representative. If the corporation or its representative cannot be located, the register may destroy the copy."

Sec. 43. G.S. 55-145(a) is hereby amended by deleting from the second and third lines thereof the words "by a resident of this State or by a person having a usual place of business in this State," so that the first paragraph of G.S. 55-145(a) reads as follows:

"(a) Every foreign corporation shall be subject to suit in this State, whether or not such foreign corporation is transacting or has transacted business in this State and whether or not it is engaged exclusively in interstate or foreign commerce, on any cause of action arising as follows:"

Sec. 44. G.S. 55-146.1 is hereby amended by deleting from the first line thereof the word "procedure" and by inserting in place thereof the word "provisions" so that G.S. 55-146.1 reads as follows:

"§ 55-146.1. *Alternative jurisdiction over and service of process on foreign corporations.*—In addition to the provisions set out in this Chapter, foreign corporations may be served with process and subjected to the jurisdiction of the courts of this State pursuant to applicable provisions of Chapter 1 and Chapter 1A of the General Statutes."

Sec. 45. G.S. 55-164.1 is hereby amended by rewriting the first paragraph to read as follows:

"§ 55-164.1. *New corporations organized to succeed to rights in corporate charter forfeited.*—Whenever the charter of a corporation created under the laws of the State of North Carolina has, on account of failure to make any report or return or to pay any tax or fee for such length of time as to lose its charter, and where thereafter, under the laws of the State of North Carolina, a new charter is issued, in the same name as the original corporation, and on behalf of the same corporation, such new corporation shall succeed to the same properties, to the same rights as the original corporation before losing its charter on account of neglect hereinbefore mentioned."

Sec. 45.1. G.S. 55-60(b) is hereby amended by deleting from the fourth line thereof the word "fifty" and inserting in lieu thereof the word "sixty".

Sec. 45.2. G.S. 55-46(a)(2) is hereby amended by inserting a comma after the word "corporation" in the first line thereof.

Sec. 45.3. G.S. 55-12 is hereby amended by adding at the end thereof a new subsection (k) to read as follows:

"(k) The issuance of a corporate charter to any domestic corporation shall not authorize the use in this State of the corporate name in violation of the rights of any third party under the Federal Trademark Act, the Trademark Act of this State, or the common law; and the issuance of such charter shall not be a defense to an action for violation of any such rights."

Sec. 45.4. G.S. 55-137 is hereby amended by adding at the end thereof a new subsection (e) to read as follows:

“(e) The issuance of a certificate of authority to any foreign corporation shall not authorize the use in this State of the corporate name in violation of the rights of any third party under the Federal Trademark Act, the Trademark Act of this State, or of the common law; and the issuance of such certificate shall not be a defense to an action for violation of any such rights.”

Sec. 46. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 47. This act shall be effective on and after October 1, 1973.

In the General Assembly read three times and ratified, this the 14th day of May, 1973.

S. B. 616

CHAPTER 470

AN ACT TO CONFORM THE TERMS OF CERTAIN MUNICIPAL OFFICERS TO THE MUNICIPAL ELECTION PROCEDURES OF CHAPTER 163 OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. The terms of municipal officers elected during the calendar year 1970 for terms to expire at any time during the calendar year 1974 are hereby reduced to expire at such time during the calendar year 1973 as their successors in office are elected and qualified pursuant to Article 23 of Chapter 163 of the General Statutes. The terms of municipal officers elected during the calendar year 1972 for terms to expire during the calendar year 1976 are hereby reduced to expire at such time during the calendar year 1975 as their successors in office are elected and qualified pursuant to Article 23 of Chapter 163 of the General Statutes.

Sec. 2. The provisions of this act shall not apply to the City of Winston-Salem.

Sec. 3. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 14th day of May, 1973.

S. B. 692

CHAPTER 471

AN ACT TO AMEND ARTICLE 13, CHAPTER 130 NORTH CAROLINA GENERAL STATUTES RELATING TO WATER AND SEWER SANITATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-160 is amended by rewriting it to read as follows:

“§ 130-160. *Sanitary sewage disposal; rules.*—Any person owning or controlling any two family residence, place of business or place of public assembly shall provide a sanitary system of sewage disposal consisting of an approved privy, an approved septic tank system, or a connection to a public or community sewerage system. Any such sanitary sewage disposal system with 3000 gallons or less design capacity serving a multiple family residence, place of business, or place of public assembly, the effluent from which is not discharged to the surface waters, shall be approved under rules and regulations promulgated by the State Board of Health. All other such sanitary sewage disposal systems with more than 3000 gallons design capacity shall be approved under rules and

regulations promulgated by the Board of Water and Air Resources pursuant to the applicable provisions of Article 21 of Chapter 143.”

Sec. 2. G.S. 130-161 is amended by rewriting it to read as follows:

“§ 130-161. *Systems of water supply; plans submitted.*—The State Board of Health shall from time to time consult with and advise the boards of all State institutions, the authorities of cities and towns, and persons already having or intending to introduce systems of water supply, or intending to make major alterations to existing systems of water supply as to the most appropriate source of water supply and the best practical method of assuring the purity thereof, having regard to the present and prospective needs and interests of other cities, towns, and persons which may be affected thereby. All such boards of directors, authorities, and persons are hereby required to give notice to the State Board of Health of their intentions to introduce or alter a system of water supply, and to submit to the Board such plans, surveys, and other information as may be required by rules and regulations promulgated by the State Board of Health. No such board of directors, authorities, or persons may enter into a contract for the introduction or alteration of a system of water supply until such plans and other information have been received, considered and approved by the State Board of Health.”

Sec. 3. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or application of the act which can be given effect without the invalid provisions or application, and to this end the provisions of this act are declared to be severable.

Sec. 4. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 14th day of May, 1973.

H. B. 43

CHAPTER 472

AN ACT TO REVISE THE CLAIM AND DELIVERY PROCEDURES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1-474 is hereby amended to read as follows:

“§ 1-474. *Order of seizure and delivery to plaintiff.*—The clerk of court may, upon notice and hearing as provided in G.S. 1-474.1, and upon the giving by the plaintiff of the undertaking prescribed in G.S. 1-475, require the sheriff of the county where the property claimed is located to take said property from the defendant and deliver it to the plaintiff. The act of the clerk in issuing or refusing to issue the order to the sheriff is a judicial act and may be appealed to the judge of the district or superior court having jurisdiction of the principal action.”

Sec. 2. Article 36, Chapter 1 of the North Carolina General Statutes is hereby amended by adding the following section:

“§ 1-474.1. *Notice of hearing; waiver; permissible form of notice and waiver.*—(a) The clerk of court, upon the request of the plaintiff, shall issue a notice to the defendant setting a time and place for a hearing before the clerk which shall not be less than 10 days from the date of service of said notice upon the defendant. The notice shall be served on the defendant in any manner provided by the Rules of Civil Procedure for the service of summons. Upon the request of the plaintiff the notice shall contain an order enjoining the defendant

from willfully disposing of the property in any manner, from removing or permitting the removal of the property from the State of North Carolina, or from causing or permitting willful damage or destruction of the property. If in a trial on the merits it is determined that the plaintiff was entitled to the possession of the property, and the defendant after service of notice of the hearing shall have willfully disposed of the property, removed or permitted the removal of the property from the State of North Carolina, or caused or permitted its willful damage or destruction, the defendant may be found in contempt of court and may be fined or imprisoned by the court as provided by law.

(b) Waiver of the rights to notice and hearing shall not be permitted wxcept as set forth herein. At any time subsequent to service of the notice of hearing provided in subsection (a), the clerk of court, upon the request of the plaintiff, shall mail to the defendant at his last known address a form by which the defendant may waive his right to the hearing. Upon the return of the form to the clerk of court, bearing the signature of the defendant and that of a witness to the defendant's signature (which witness shall not be a party to the action or an agent or employee of a party to the action), the clerk in his discretion may dispense with the necessity of a hearing and may proceed to issue the order of seizure prescribed by G.S. 1-474.

(c) In addition to any other forms substantially complying with the requirements of the preceding subsections, form (1) below may be used to give the notice provided for in subsection (a) above and form (2) below may be used to waive the hearing as provided in subsection (b) above:

(1) READ THIS NOTICE.

WARNING: DO NOT WILLFULLY DISPOSE OF, REMOVE OR PERMIT THE REMOVAL FROM THE STATE OF NORTH CAROLINA, OR CAUSE OR PERMIT WILLFUL DAMAGE OR DESTRUCTION OF THE PROPERTY DESCRIBED BELOW BECAUSE YOU MAY BE HELD IN CONTEMPT OF COURT AND MAY BE FINED OR IMPRISONED.

To: _____ (Defendant).

If you want to present reasons why you should not have the property described below taken from you, then you should appear at a hearing to be held before the undersigned clerk of court at _____ o'clock _____.m. on the _____ day of _____, 19____, at the _____ County Courthouse because

_____ (Plaintiff)

has sworn that you wrongfully hold the following property and that he is entitled to it:

(Description of Property)

At the hearing the plaintiff will present evidence, and you are allowed to present evidence. You may bring an attorney to this hearing. Upon the basis of the evidence presented, the clerk will decide whether or not to issue an order directing the sheriff to take the

property until a trial on the merits is held. You are hereby ORDERED:

- a. not to willfully dispose of the property;
- b. not to remove or permit its removal from the State of North Carolina; and
- c. not to cause or permit its damage or destruction.

If you fail to comply with this order, and it is finally determined that the plaintiff is entitled to the possession of the property, you may be guilty of contempt of court and may be fined or imprisoned as provided by law.

If you have any questions about the hearing, you may contact an attorney or the clerk of court prior to the hearing.

(Certificate of Service)

(2) VOLUNTARY WAIVER OF HEARING.

To _____ (Defendant)

You have been served with a notice that a hearing will be held before the undersigned clerk of court at

_____ o'clock ____m. on the _____ day of

_____, 19____, at the

_____ County Courthouse to determine

if _____ (Plaintiff)

is entitled to the possession of the following described property until a trial on the merits is held:

(Description of Property)

If you do not wish to object to the plaintiff's right to the possession of this property until a trial on the merits is held, you may waive your right to the hearing by signing the statement below, having your signature witnessed by any person who is not a party or an agent or employee of a party to this action and returning it to the undersigned clerk of court by mail or in person prior to the date set for the hearing.

Clerk of Superior Court

I, _____, do hereby voluntarily waive and relinquish my right to the hearing described above.

Defendant

Witness:

(Name) _____

(Address) _____

Sec. 2.1. Article 36, Chapter 1 of the North Carolina General Statutes is hereby amended by adding at the end thereof a new section to read as follows:

"§ 1-484.1. *Remedy not exclusive.*—The provisions of this Article shall not be construed to preclude the use of attachment or any other ancillary remedy (upon the terms and subject to the conditions provided by law for the exercise thereof) simultaneously with the remedy of claim and delivery."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of May, 1973.

H. B. 102

CHAPTER 473

AN ACT TO PROVIDE FUNDS TO COUNTIES FOR EDUCATION, RESEARCH, TREATMENT AND REHABILITATION OF ALCOHOLICS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 18A-15(3) is amended by striking therefrom the following: "the State Treasurer" and inserting in lieu thereof: "the county commissioners of the county in which such five cents (5¢) per bottle was collected"; and by striking the words "placed in the general fund and shall be subject to appropriation by the General Assembly to the same degree as any other moneys deposited in said general fund." and substituting in lieu thereof the following: "spent in the discretion of the county commissioners only for projects for construction, maintenance and operation of facilities for education, research, treatment or rehabilitation of alcoholics. The funds may also be used for programs of education and research on problems of alcoholism and the treatment and rehabilitation of alcoholics. The county commissioners are hereby empowered to spend the funds for a project not located in the county but which benefits the citizens of the county. The State Department of Mental Health and the State Department of Public Instruction are hereby empowered to enact guidelines for the expenditure of such funds by county commissioners and the county commissioners may expend the funds pursuant to those guidelines."

Sec. 2. This act shall not apply to alcoholic beverages sold in bottles of less than one-half pint in quantity.

Sec. 3. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 14th day of May, 1973.

H. B. 335

CHAPTER 474

AN ACT TO AMEND CHAPTER 780 OF THE 1971 SESSION LAWS, IN ORDER TO MAKE TECHNICAL AMENDMENTS TO SUBCHAPTERS II AND III OF G.S. CHAPTER 159, AS ENACTED BY CHAPTER 780 AND TO MAKE CORRESPONDING AMENDMENTS TO EXISTING CHAPTERS OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. Each time G.S. Chapter 159 is amended in this act, the amendment is to Chapter 159 as enacted by Section 1 of Chapter 780 of the 1971 Session Laws and as G.S. Chapter 159 appears in Chapter 780.

Sec. 2. G.S. 159-3(a) is rewritten as follows:

"(a) The Local Government Commission consists of nine members. The State Treasurer, the State Auditor, the Secretary of State, and the Commissioner of Revenue each serve ex officio; the remaining five members are appointed to four-year terms as follows: three by the Governor, one by the Lieutenant Governor, and one by the Speaker of the House. Of the three members appointed by the Governor, one shall be or have been the mayor or a member of the

governing board of a city and one shall be or have been a member of a county board of commissioners. The State Treasurer is chairman ex officio of the Local Government Commission. Membership on the Commission is an office that may be held concurrently with one other office, as permitted by G.S. 128-1.1."

Sec. 3. G.S. 159-7 is amended by changing the title of the section to "Short title; definitions; local acts superseded.", and by adding a new subsection (c) to read as follows:

"(c) It is the intent of the General Assembly by enactment of this article to prescribe for local governments and public authorities a uniform system of budget adoption and administration and fiscal control. To this end and except as otherwise provided in this article, all provisions of general laws, city charters, and local acts in effect as of July 1, 1973 and in conflict with the provisions of part 1 or part 3 of this article are repealed. No general law, city charter, or local act enacted or taking effect after July 1, 1973, may be construed to modify, amend, or repeal any portion of part 1 or part 3 of this article unless it expressly so provides by specific reference to the appropriate section."

Sec. 4. G.S. 159-7(b) is amended as follows:

(a) Paragraph (1) ("Fiscal year") is rewritten as follows:

"(1) 'Fiscal year' is the annual period for the compilation of fiscal operations, as prescribed in G.S. 159-8(b)."

(b) Paragraph (5) ("Fund") is amended by striking the words and punctuation: ", pursuant to a budget or budget ordinance,".

(c) Paragraph (6) ("Fund balance") is amended by deleting the word and punctuation "reserves,".

(d) Paragraph (13) ("Unit", et. al.) is amended by striking out the word "independent".

(e) Paragraph (15) ("Public authority") is rewritten as follows:

"(15) 'Public authority' is (i) a municipal corporation (other than a unit of local government) that is not subject to the Executive Budget Act (G.S. 143-1 through G.S. 143-34.2) or (ii) a local governmental authority, board, commission, council, or agency that (a) is not a municipal corporation, (b) is not subject to the Executive Budget Act, and (c) operates on an area, regional, or multi-unit basis, and the budgeting and accounting systems of which are not fully a part of the budgeting and accounting systems of a unit of local government."

(f) Paragraph (12) ("Nontax revenues") is deleted and the succeeding paragraphs renumbered accordingly.

Sec. 5. G.S. 159-8 is rewritten as follows:

"§ 159-8. *Annual balanced budget ordinance.*—(a) Each local government and public authority shall operate under an annual balanced budget ordinance adopted and administered in accordance with this article. A budget ordinance is balanced when the sum of estimated net revenues and appropriated fund balances is equal to appropriations. It is the intent of this article that all moneys received and expended by a local government or public authority should be included in the budget ordinance. Therefore, notwithstanding any other provision of law, after July 1, 1973, no local government or public authority may expend any moneys, regardless of their source (including moneys derived from bond proceeds, federal, State, or private grants or loans, or special assessments), except in accordance with a budget ordinance adopted pursuant to this article.

(b) The budget ordinance of a unit of local government shall cover a fiscal year beginning July 1 and ending June 30. The budget ordinance of a public authority shall cover a fiscal year beginning July 1 and ending June 30, except that the Local Government Commission, if it determines that a different fiscal year would facilitate the authority's financial operations, may enter an order permitting an authority to operate under a fiscal year other than from July 1 to June 30. If the Commission does permit an authority to operate under an altered fiscal year, the Commission's order shall also modify the budget calendar set forth in G.S. 159-10 through G.S. 159-13 so as to correspond with the altered fiscal year."

Sec. 6. The first sentence of G.S. 159-9 is amended by striking the words "hold office" and inserting in their place the word "serve".

Sec. 7. G.S. 159-13(a) is amended as follows:

(a) In the first sentence of the subsection, by striking the number "20" and inserting in lieu thereof the number "10".

(b) In the second sentence of the subsection, by striking the words "at least the following funds" and inserting in lieu thereof the words "each of the following funds applicable to the unit or public authority".

Sec. 8. G.S. 159-13(a) is amended as follows:

(a) Paragraph (3) is rewritten as follows:

"(3) School funds required by G.S. Chapter 115, except that the school debt service fund may be combined with the debt service fund required by paragraph (2) of this subsection."

(b) Paragraph (4) is rewritten as follows:

"(4) Public assistance funds established pursuant to G.S. Chapter 108."

(c) The first sentence of paragraph (6) is rewritten as follows: "A fund for each utility or other public service enterprise owned or operated by the unit or public authority."

(d) Paragraph (7) is rewritten as follows:

"(7) A capital project fund to account for the proceeds of each bond order and for all other resources used for the capital projects financed by the bond proceeds. A unit or public authority may account for two or more bond orders in one capital project fund, but the proceeds of each such bond order and the other revenues associated with that bond order shall be separately accounted for in the fund."

(e) A new paragraph, numbered (9), is added:

"(9) A reappraisal reserve fund, as required by G.S. 153-150."

(f) Paragraph (8) is rewritten as follows: "(8) A fund for each special district or public authority whose taxes or special assessments are collected by the unit."

Sec. 9. G.S. 159-13(b) is amended as follows:

(a) Paragraph (10) is amended by changing the period at the end thereof to a comma, and adding the following: "except for appropriations from such a fund to an appropriate account in a capital reserve fund."

(b) Paragraph (9) is amended by striking the words "Chapters 115 and 115A" and inserting in lieu thereof the words "Chapter 115".

(c) Paragraph (11) is amended by striking the words "exist or to levy taxes" and inserting in lieu thereof the word "function".

(d) Paragraph (12) is rewritten as follows:

"(12) No appropriation may be made from a public assistance fund or a separate category of expenditure maintained in accordance with G.S. Chapter 108 to any other fund or category of expenditure, as the case may be, except in accordance with G.S. 108-57."

(e) Paragraph (13) is rewritten as follows:

"(13) No appropriation of the proceeds of a bond issue may be made from the capital project fund account established to account for the proceeds of the bond issue except (i) for the purpose for which the bonds were issued, (ii) to the appropriate debt service fund, or (iii) to an account within a capital reserve fund consistent with the purposes for which the bonds were issued. The total of other appropriations made to another fund from such a capital project fund account may not exceed the amount of revenues other than bond proceeds available to the account."

(f) Paragraph (14) is rewritten as follows:

"(14) No appropriation may be made from a utility or public service enterprise fund to any other fund than the appropriate debt service fund unless the total of all other appropriations in the fund equal or exceed the amount that will be required during the fiscal year, as shown by the budget ordinance, to meet operating expenses, capital outlay, and debt service on outstanding utility or enterprise bonds or notes."

(g) Following paragraph (2) and before paragraph (3), two new paragraphs, numbered (3) and (4), are inserted and the present paragraphs, beginning with present paragraph (3), are renumbered accordingly. The two new paragraphs read as follows:

"(3) Sufficient funds to meet the amounts to be paid during the fiscal year under continuing contracts previously entered into shall be appropriated.

"(4) The sum of estimated net revenues and appropriated fund balance in each fund shall be equal to appropriations in that fund."

(h) A new paragraph (17) is added, as follows:

"(17) No appropriations may be made from a county reappraisal reserve fund except for the purposes for which the fund was established."

(i) The last full paragraph of the subsection is amended by striking the word and numbers "(9), (10), (11), (12), or (14)" and inserting in lieu thereof the word and numbers "(11), (12), (13), (14), (16), (17), or (18)".

Sec. 10. In the first paragraph of G.S. 159-14, the last sentence is rewritten as follows: "Upon receiving notification from the county or city governing board as to what rate of tax will be approved or after June 15 if no such notification is received, the district governing board shall complete its budget deliberations and shall adopt its budget ordinance."

Sec. 11. G.S. 159-14 is amended by inserting a new paragraph between the present first and second paragraphs, to read as follows:

"If the tax-levying power of a special district is by law exercised on its behalf by a county or city, and if the county or city governing board has no discretion as to what rate of tax it will levy on behalf of the special district, the governing board of the district shall notify the city or county by June 15 of the rate of tax it wishes to have levied. If the district does not notify the county or city governing board on or before June 15 of the rate of tax it wishes to have levied, the county or city is not required to levy a tax for the district for the fiscal year."

Sec. 12. The first paragraph of G.S. 159-15 is rewritten, to read as follows:

“§ 159-15. *Amendments to the budget ordinance.*—Except as otherwise restricted by law, the governing board may amend the budget ordinance at any time after the ordinance’s adoption in any manner, so long as the ordinance, as amended, continues to satisfy the requirements of G.S. 159-8 and 159-13. However, no amendment may increase or reduce a property tax levy or in any manner alter a property taxpayer’s liability, unless the board is ordered to do so by a court of competent jurisdiction, or by a State agency having the power to compel the levy of taxes by the board.”

Sec. 13. G.S. 159-17 is rewritten as follows:

“§ 159-17. *Ordinance procedures not applicable to budget adoption.*—Notwithstanding the provisions of any city charter, general law, or local act:

- (i) any action with respect to the adoption or amendment of the budget ordinance may be taken at any regular or special meeting of the governing board by a simple majority of those present and voting, a quorum being present;
- (ii) no action taken with respect to the adoption or amendment of the budget ordinance need be published or is subject to any other procedural requirement governing the adoption of ordinances or resolutions by the governing board other than the procedures set out in this article;
- (iii) the adoption and amendment of the budget ordinance and the levy of taxes in the budget ordinance are not subject to the provisions of any city charter or local act concerning initiative or referendum.

During the period beginning with the submission of the budget to the governing board and ending with the adoption of the budget ordinance, the governing board may hold any special meetings that may be necessary to complete its work on the budget ordinance. Any provisions of law concerning the call of special meetings do not apply during that period so long as (i) each member of the board has actual notice of each special meeting called for the purpose of considering the budget, and (ii) no business other than consideration of the budget is taken up. This section does not allow the holding of closed meetings or executive sessions by any governing board otherwise prohibited by law from holding such a meeting or session, and may not be construed to do so.

No general law, city charter, or local act enacted or taking effect after July 1, 1973, may be construed to modify, amend, or repeal any portion of this section unless it expressly so provides by specific reference to this section.”

Sec. 14. The first sentence of G.S. 159-19 is rewritten as follows: “The resolution or ordinance may be amended from time to time in the same manner in which it was adopted.”

Sec. 15. G.S. 159-20 is amended by striking in the first sentence the words “and transfer of moneys or investment securities”.

Sec. 16. G.S. 159-22 is rewritten as follows:

“§ 159-22. *Withdrawals.*—Withdrawals from a capital reserve fund may be authorized by resolution or ordinance of the governing board of the local government or public authority. No withdrawal may be authorized for any purpose not specified in the resolution or ordinance establishing the fund or in a resolution or ordinance amending it. The withdrawal resolution or ordinance shall authorize an appropriation from the capital reserve fund to an appropriate appropriation in one of the funds maintained pursuant to G.S. 159-13(a). No

withdrawal may be made which would result in an appropriation for purposes for which an adequate balance of eligible moneys or investment securities is not then available in the capital reserve fund."

Sec. 17. G.S. 159-24 is amended by striking from the beginning of the third sentence the words and punctuation "Except as hereinafter provided," and by capitalizing the next word, "the".

Sec. 18. G.S. 159-25(a) is amended in the last sentence by changing the word "accountant" to read "accountants".

Sec. 19. G.S. 159-25(b) is rewritten as follows:

"(b) Except as otherwise provided by law, all checks or drafts on an official depository shall be signed by the finance officer and countersigned by another official of the local government or public authority designated for this purpose by the governing board. If the board makes no other designation, the chairman of the board or chief executive officer of the local government or public authority shall countersign these checks and drafts. The governing board of a unit or authority may waive the requirements of this subsection if the board determines that the internal control procedures of the unit or authority will be satisfactory in the absence of dual signatures."

Sec. 20. G.S. 159-25(c) is amended by inserting between the word "regulations" and the word "governing" the words "having the force of law".

Sec. 21. G.S. 159-27 is amended by rewriting subsection (a) to read as follows:

"(a) The finance officer shall distribute property tax collections among the appropriate funds, according to the budget ordinance, at least monthly."

Sec. 22. G.S. 159-28(a) is amended by striking from the first sentence the words "duty of administering that portion of the budget ordinance to which it is to be charged" and inserting in lieu thereof the words "responsibility for administering the function or agency to which the expense is to be charged".

Sec. 23. G.S. 159-28 is amended as follows:

(a) Subsection (a) is amended by striking from the third sentence of the first paragraph the words "or bonds or notes duly authorized".

(b) Subsection (b) is amended by rewriting the first sentence thereof to read as follows:

"(b) No contract or agreement requiring the payment of money, nor any requisition or purchase order for supplies or materials, may be made unless an appropriation therefor appears in the budget ordinance and a sufficient unencumbered balance remains in the appropriation to pay the sums to fall due thereunder during the fiscal year."

(c) Subsection (b) is amended by striking from the second sentence the words and punctuation "bonds or notes duly authorized, or binding grants or loans or grant or loan commitments duly made,".

Sec. 24. The first sentence of G.S. 159-30(b) is rewritten as follows: "Moneys may be deposited at interest in any bank or trust company in this State in the form of certificates of deposit or such other forms of time deposit as the Commission may approve."

Sec. 25. G.S. 159-30(c) is amended by rewriting paragraph (6) as follows:

"(6) Obligations maturing no later than 18 months after the date of purchase of the Federal Intermediate Credit Banks, the Federal Home Loan Banks, the

Federal National Mortgage Association, the Banks for Cooperatives, and the Federal Land Banks.”

Sec. 26. G.S. 159-31 is amended by adding, in subsection (a), a new sentence after the present first sentence, to read as follows:

“In addition, a unit or public authority, with the written permission of the secretary, may designate a state bank or trust company located in another state as an official depository for the purpose of acting as fiscal agent for the unit or public authority.”

Sec. 27. G.S. 159-32 is rewritten to read as follows:

“§ 159-32. *Daily deposits.*—Except as otherwise provided by law, all taxes and other moneys collected or received by an officer or employee of a local government or public authority shall be deposited in accordance with this section. Each officer and employee of a local government or public authority whose duty it is to collect or receive any taxes or other moneys shall deposit his collections and receipts daily. If the governing board gives its approval, deposits shall be required only when the moneys on hand amount to as much as two hundred fifty dollars (\$250.00), but in any event a deposit shall be made on the last business day of the month. All deposits shall be made with the finance officer or in an official depository. Deposits in an official depository shall be immediately reported to the finance officer by means of a duplicate deposit ticket. The finance officer may at any time audit the accounts of any officer or employee collecting or receiving taxes or other moneys, and may prescribe the form and detail of these accounts. The accounts of such an officer or employee shall be audited at least annually.”

Sec. 28. G.S. Chapter 159 is amended by inserting a new section, G.S. 159-33.1, as follows:

“§ 159-33.1. *Semiannual reports of financial information.*—The finance officer of each unit and public authority shall submit to the secretary on January 1 and July 1 of each year (or such other dates as the secretary may prescribe) a statement of financial information concerning the unit or public authority. The secretary may prescribe the information to be included in the statement and may prescribe the form of the statement.”

Sec. 28.1. Article 3 of Chapter 159 of the General Statutes is amended by inserting a new Part therein as follows:

“Part 4. Public Hospitals.

“§ 159-39. *Special regulations pertaining to public hospitals.*—(a) For the purposes of this Part, “public hospital” means any hospital that

- (1) is owned by or leased to a county, city, hospital district, or hospital authority, or
- (2) is owned by or leased to a nonprofit corporation organized under Chapter 55A of the General Statutes in which a majority of the board of directors of the corporation consists of or are appointed by the governing body of a county, city, hospital district, or hospital authority, or
- (3) on whose behalf a county or city has issued and has outstanding general obligation or revenue bonds, or to which a county or city makes current appropriations (other than appropriations for the cost of medical care to prisoners or indigents).

(b) Except as provided in this Part, none of the provisions of Parts 1, 2, and 3 of this Article apply to public hospitals.

(c) Each public hospital shall operate under an annual balanced budget. A budget is balanced when the sum of appropriations is equal to the sum of estimated net revenues and appropriated fund balances.

(d) The governing board of each public hospital shall appoint or designate a finance officer, who shall have the following powers and duties:

- (1) He shall prepare the annual budget for presentation to the governing board of the public hospital and shall administer the budget as approved by the board.
- (2) He shall keep the accounts of the hospital in accordance with generally accepted principles of accounting.
- (3) He shall prepare and file a statement of the financial condition of the hospital as revealed by its accounts upon the request of the hospital governing board or the governing board of any county, city, or other unit of local government that has issued on behalf of the hospital and has outstanding its general obligation or revenue bonds or makes current appropriations to the hospital (other than appropriations for the cost of medical care to prisoners or indigents).
- (4) He shall receive and deposit all moneys accruing to the hospital, or supervise the receipt and deposit of money by other duly authorized officers or employees of the hospital.
- (5) He shall supervise the investment of idle funds of the hospital.
- (6) He shall maintain all records concerning the bonded debt of the hospital, if any, determine the amount of money that will be required for debt service during each fiscal year, and maintain all sinking funds, but shall not be responsible for records concerning the bonded debt of any county, city, or other unit of local government incurred on behalf of the hospital.

(e) The Local Government Commission has authority to issue rules and regulations governing procedures for the receipt, deposit, investment, transfer, and disbursement of money and other assets by public hospitals, may inquire into and investigate the internal control procedures of a public hospital, and may require any modifications in internal control procedures which, in the opinion of the Commission, are necessary or desirable to prevent embezzlements, mishandling of funds, or continued operating deficits.

(f) The accounting system of a public hospital shall be so designed that the true financial condition of the hospital can be determined therefrom at any time. As soon as possible after the close of each fiscal year, the accounts shall be audited by a certified public accountant or by an accountant certified by the Local Government Commission as qualified to audit local government accounts. The auditor shall be selected by and shall report directly to the hospital governing board. The audit contract or agreement shall be in writing, shall include all its terms and conditions, and shall be submitted to the Secretary of the Local Government Commission for his approval as to form, terms and conditions. The terms and conditions of the audit shall include the scope of the audit, and the requirement that upon completion of the examination the auditor shall prepare a written report embodying financial statements and his opinion and comments relating thereto. The finance officer shall file a copy of the audit with the Secretary of the Local Government Commission and with the finance officer of any county, city, or other unit of local government that has issued on behalf of the hospital and has outstanding its general obligation or revenue

bonds or makes current appropriations to the hospital (other than appropriations for the cost of medical care to prisoners or indigents).

(g) A public hospital may deposit or invest at interest all or part of its cash balance pursuant to G.S. 159-30.

(h) Public hospitals are subject to G.S. 159-31 with regard to selection of an official depository and security of deposits.

(i) Public hospitals are subject to G.S. 159-32 with regard to daily deposits.

(j) Public hospitals are subject to G.S. 159-33 with regard to semiannual reports to the Local Government Commission on the status of deposits and investments.

(k) Any hospital district or hospital authority having outstanding general obligation or revenue bonds is subject to G.S. 159-35, G.S. 159-36, G.S. 159-37, and G.S. 159-38."

Sec. 29. Chapter 780 of the 1971 Session Laws is amended by adding a new section, numbered Sec. 37.1, to read as follows:

"Sec. 37.1. G.S. Chapter 157 is amended by inserting a new section, numbered G.S. 157-4.2, to read as follows:

*'§ 157-4.2. Authority budgeting and accounting systems as a part of city or county budgeting and accounting systems.—*The council of a city or the board of commissioners of a county may by resolution provide that the budgeting and accounting systems of the city's or county's housing authority (or, if the city's redevelopment commission is exercising the powers, duties, and responsibilities of a housing authority, the budgeting and accounting systems of the redevelopment commission) shall be an integral part of the budgeting and accounting systems of the city or county. If such a resolution is adopted:

- (1) For purposes of the Local Government Budget and Fiscal Control Act, the authority (or commission) shall not be considered a "public authority", as that phrase is defined in G.S. 159-7(b), but rather shall be considered a department or agency of the city or county. The operations of the authority (or commission) shall be budgeted and accounted for as if the operations were those of a public enterprise of the city or county.
- (2) The budget of the authority (or commission) shall be prepared and submitted in the same manner and according to the same procedures as are the budgets of other departments and agencies of the city or county; and the budget ordinance of the city or county shall provide for the operations of the authority (or commission).
- (3) The budget officer and finance officer of the city or county shall administer and control that portion of the city or county budget ordinance relating to the operations of the authority (or commission)."

Sec. 30. Chapter 780 of the 1971 Session Laws is amended by adding a new section, numbered Sec. 37.2, to read as follows:

"Sec. 37.2. G.S. Chapter 160 is amended by inserting a new section, numbered G.S. 160-457.1a, immediately after G.S. 160-457.1, to read as follows:

*'§ 160-457.1a. Commission budgeting and accounting systems as a part of municipality budgeting and accounting systems.—*The governing body of a municipality may by resolution provide that the budgeting and accounting systems of the municipality's redevelopment commission or, if the municipality's housing authority is exercising the powers, duties, and responsibilities of a redevelopment commission, the budgeting and accounting

systems of the housing authority, shall be an integral part of the budgeting and accounting systems of the municipality. If such a resolution is adopted:

- (1) For purposes of the Local Government Budget and Fiscal Control Act, the commission or authority shall not be considered a "public authority", as that phrase is defined in G.S. 159-7(b), but rather shall be considered a department or agency of the municipality. The operations of the commission or authority shall be budgeted and accounted for as if the operations were those of a public enterprise of the municipality.
- (2) The budget of the commission or authority shall be prepared and submitted in the same manner and according to the same procedures as are the budgets of other departments and agencies of the municipality; and the budget ordinance of the municipality shall provide for the operations of the commission or authority.
- (3) The budget officer and finance officer of the municipality shall administer and control that portion of the municipality's budget ordinance relating to the operations of the commission or authority'."

Sec. 31. Chapter 780 of the 1971 Session Laws is amended by adding a new section, numbered Sec. 37.3, to read as follows:

"Sec. 37.3. Chapter 583 of the Public-Local Laws of 1923 is amended by adding at the end of Section 7 thereof the following:

'For purposes of the Local Government Budget and Fiscal Control Act (G.S. Chapter 159, Subchapter III), the board of trustees of a cemetery is a board of the municipal corporation establishing the board of trustees and is not a public authority as defined by G.S. 159-7.'"

Sec. 32. This act takes effect upon ratification.

In the General Assembly read three times and ratified, this the 14th day of May, 1973.

H. B. 373

CHAPTER 475

AN ACT TO AMEND CHAPTER 122 OF THE GENERAL STATUTES RELATING TO THE RIGHTS OF PATIENTS AT TREATMENT FACILITIES FOR THE MENTALLY ILL AND RETARDED.

The General Assembly of North Carolina enacts:

Section 1. Chapter 122 of the General Statutes is hereby amended by adding the following sections immediately following G.S. 122-45, to be numbered G.S. 122-45.1, G.S. 122-45.2, G.S. 122-45.3, G.S. 122-45.4, G.S. 122-45.5, G.S. 122-45.6, and G.S. 122-45.7, and to read as follows:

"§ 122-45.1. *Declaration of policy on patients' rights.*—It is the policy of North Carolina to insure to each patient of a treatment facility basic human rights. These rights include the right to dignity, privacy, and humane care. It is further the policy of the State that each treatment facility shall insure to each patient the right to live as normally as possible while receiving care and treatment.

"§ 122-45.2. *Patients' rights.*—(a) Each patient of a treatment facility shall at all times retain the right to:

- (1) Send and receive sealed mail, and have access to writing material, postage, and staff assistance when necessary;
- (2) Contact and consult with legal counsel and private physicians of his choice at his expense.

(b) Except as provided in (d) below, each patient of a treatment facility shall at all times retain the right to:

- (1) Make and receive confidential telephone calls, provided that all long distance calls shall be paid for by the patient at the time of making the call or made collect to the receiving party;
- (2) Receive visitors between the hours of 8:00 a.m. and 9:00 p.m. for a period of at least six hours daily, two hours of which shall be after the hour of 6:00 p.m.;
- (3) Make visits outside the institution unless such patient was committed to a treatment facility under Article 11 of Chapter 122 of the General Statutes;
- (4) Be out of doors daily and have access to facilities and equipment for physical exercise several times a week;
- (5) Keep and use his own clothing and personal possessions;
- (6) Communicate and meet under appropriate supervision with persons of his own choice, upon the consent of such persons;
- (7) Participate in religious worship;
- (8) Keep and spend a reasonable sum of his own money;
- (9) Retain a motor vehicle driver's license, unless otherwise prohibited by Chapter 20 of the General Statutes;
- (10) Have access to individual storage space for the patient's private use.

(c) Each patient of a treatment facility shall retain the right to exercise all civil rights, including the right to dispose of property, execute instruments, make purchases, enter into contractual relationships, register and vote, and marry and obtain a divorce, unless such patient has been adjudicated incompetent under the provisions of Chapter 35 of the General Statutes and has not been restored to legal capacity; provided, however, that this act shall not be construed as validating the act of any patient who was at the time of the act in fact incompetent.

(d) No right enumerated in section (b) above may be limited or restricted without a written statement in the patient's treatment or habilitation plan which indicates the detailed reason for such a restriction or limitation. No restriction of rights shall be made except by mental health or mental retardation professionals responsible for the formulation of the patient's treatment or habilitation plan. In each instance of restriction of rights, the patient and the patient's next of kin or guardian, and the Secretary of Human Resources, shall be given written notice of the restriction and the detailed reason therefor. A written restriction shall be effective for a period not to exceed 30 days and shall be renewed only by a written statement entered by a mental health or mental retardation professional in the patient's treatment or habilitation plan which indicates the detailed reason for such renewal of the restriction. In each instance of renewal of a restriction, the patient and the patient's next of kin or guardian, and the Secretary of Human Resources, shall be given written notice of the renewal of the restriction and the reason therefor.

“§ 122-45.3. *Use of physical restraints or seclusion.*—Physical restraints or seclusion of a patient shall be employed only when necessary to prevent danger of abuse or injury to himself or others, or as a measure of therapeutic treatment. All instances of such restraints or seclusions and the detailed reasons therefor shall be recorded in the patient's habilitation or treatment plan. Each patient

who is restrained or secluded shall be observed frequently and a written notation of such observation shall be made in the patient's treatment record.

"§ 122-45.4. *Use of corporal punishment.*—Corporal punishment shall not be inflicted upon any patient.

"§ 122-45.5. *Declaration of policy on right to treatment.*—Each patient shall have the right to treatment including medical care and habilitation, regardless of age, degree of retardation or mental illness. Each patient has the right to an individualized written treatment or habilitation plan setting forth a program which will develop or restore his capabilities.

"§ 122-45.6. *Right to treatment.*—Each institutionalized patient shall have the right to receive appropriate medical treatment for mental and physical ailments and for the prevention of illness or disability. Each patient shall have an individual treatment or habilitation plan formulated by the treatment facility's mental health or mental retardation professionals and implemented no later than 14 days after the patient's admission or, in the case of out-patient care and treatment, no later than 14 days after the patient is accepted for such care and treatment. Each plan shall state the patient's history, the results of examination following admission or acceptance for out-patient care and treatment, diagnosis, prognosis, and the estimated time length for treatment or habilitation. Each patient who has been institutionalized in a State hospital shall have an individualized written post-institutionalization plan setting forth a program of recommended vocational counseling and out-patient care. A copy of such plan shall be furnished to the patient or guardian and, if authorized by the patient, to his next of kin or attorney. This plan is to be developed by mental health or mental retardation professionals as soon as possible after admission but no later than 30 days following admission.

Each patient shall have a right to be free from unnecessary or excessive medication with drugs. Such medication shall not be used as punishment or discipline. No medication shall be administered except upon a written order of a qualified physician. Treatment involving electroshock therapy, the use of experimental drugs or procedures, or surgery, other than emergency surgery, shall not be given without the express and informed written consent of the patient if patently competent, otherwise of the patient and guardian as hereinafter defined, unless the patient has been adjudicated an incompetent under Chapter 35 of the General Statutes and has not been restored to legal capacity, in which case express and informed written consent of his guardian or trustee appointed pursuant to Chapter 35 of the General Statutes must be obtained. Such consent may be withdrawn at any time by the person who gave such consent. Except in case of transfer for emergency surgery, no patient shall be transferred to another treatment facility without receiving reasonable written notice which shall include the reason for the transfer. Such notice shall be given to the patient and to the next of kin or guardian of the patient.

"§ 122-45.7. *The right to civil remedies.*—All patients except those adjudicated incompetent under Chapter 35 of the General Statutes and not restored to legal capacity, shall retain the same rights as any other citizen of North Carolina to bring civil actions."

Sec. 2. Amend G.S. 122-36 by adding the following new sections:

"(g) The words 'treatment facility' shall mean any hospital or institution operated by the State of North Carolina and designated for the admission of any person in need of care and treatment due to mental illness or mental retardation,

any center or facility operated by the State of North Carolina for the care, treatment or rehabilitation of inebriates, and any community mental health clinic or center administered by the State of North Carolina.

(h) The words 'mental health professional' shall mean any person with appropriate training or experience in the field of mental health care of the mentally ill or inebriates, including but not limited to physicians, psychiatrists, psychologists, social workers, and registered nurses.

(i) The words 'mental retardation professional' shall mean any person with appropriate training or experience in the field of care for the mentally retarded, including but not limited to psychologists, physicians, educators, social workers, and registered nurses.

(j) The words 'treatment plan' shall mean the individual plan of treatment to be undertaken by the treatment facility for a patient's restoration to health.

(k) The word 'habilitation' shall mean such education, training, and treatment to be undertaken by the treatment facility to develop or restore the capabilities of the patient.

(l) The words 'habilitation plan' shall mean the individual plan of habilitation to be undertaken by the treatment facility.

(m) The word 'patient' shall mean any person admitted to or receiving care and treatment from any treatment facility.

(n) The word 'guardian,' unless otherwise restricted or defined herein, shall mean and include

(1) a court appointed general or testamentary guardian of the person of the patient,

(2) the natural parent or other person in *loco parentis* in the case of an infant patient, or if (1) and (2) not applicable,

(3) a spouse, parent, brother, sister, or other relative or friend if designated 'closest relative' by the patient at the time of his admission; provided, however, that the word 'guardian' shall not mean or include a person who files an affidavit or testifies in a proceeding in favor of involuntary commitment of the patient.

(o) The words 'next of kin' shall mean that person or persons so designated by the patient or his guardian upon admission to treatment or acceptance for treatment at a treatment facility."

Sec. 3. G.S. 122-46 and G.S. 122-47 and all other laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3 1/2. G.S. 20-17.1 is hereby amended as follows: Rewrite the first sentence of subsection (a) to read:

"(a) The Commissioner, upon receipt of notice that any person has been legally adjudicated incompetent or has been involuntarily admitted to an institution for the treatment of alcoholism or drug addiction shall forthwith make inquiry into the facts for the purpose of determining whether such person is competent to operate a motor vehicle."

Rewrite the first line of subsection (b) to read:

"(b) If any person shall be adjudicated as incompetent or is involuntarily admitted for the treatment of alcoholism or drug addiction, the clerk".

Eliminate all of subsection (c) and renumber the remaining sections accordingly.

In subsection (d) on line 5, delete "of the mentally ill and".

In subsection (e), on line 3 thereof, change (c) to read (a)."

Sec. 4. This act shall become effective September 1, 1973.

In the General Assembly read three times and ratified, this the 14th day of May, 1973.

H. B. 1127

CHAPTER 476

AN ACT TO FURTHER EFFECTUATE THE REORGANIZATION OF STATE GOVERNMENT #2.

The General Assembly of North Carolina enacts:

Section 1. Short title.—This act shall be known and may be cited as the “Executive Organization Act of 1973.”

Sec. 2. Interim applicability of the Executive Organization Act of 1973.—The Executive Organization Act of 1973 shall be applicable only to the following named departments:

1. Department of Cultural Resources
2. Department of Human Resources
3. Department of Revenue.

Sec. 3. Definitions.—As used in the Executive Organization Act of 1973, except where the context clearly requires otherwise, the words and expressions defined in this section shall be held to have the meanings here given to them.

(1) Agency: whenever the term “agency” is used it shall mean and include, as the context may require, an existing department, institution, commission, committee, board, division, bureau, officer or official.

(2) Board: a collective body which assists the head of a principal department or his designee in the development of major programs including the tender of advice on departmental priorities.

(3) Commission: a collective body which adopts rules and regulations in a quasi-legislative manner and which acts in a quasi-judicial capacity in rendering findings or decisions involving differing interests.

(4) Committee: a collective body which either advises the head of a principal department or his designee or advises a commission in detailed technical areas.

(5) Council: a collective body which advises the head of a principal department or his designee as representative of citizen advice in specific areas of interests.

(6) Division: the principal subunit of a principal State department.

(7) Head of department: head of one of the principal State departments.

(8) Higher education: State senior institutions of higher learning.

(9) Principal State department: one of the departments created by the General Assembly in compliance with Article III, Section 11, of the Constitution of North Carolina.

Sec. 4. Policy making authority and administrative powers of Governor; delegation.—The Governor, in accordance with Article III of the Constitution of North Carolina, shall be the Chief Executive Officer of the State. The Governor shall be responsible for formulating and administering the policies of the executive branch of the State government. Where a conflict arises in connection with the administration of the policies of the executive branch of the State government with respect to the reorganization of State government, the conflict shall be resolved by the Governor, and the decision of the Governor shall be final.

Sec. 5. Governor; continuation of powers and duties.—All powers, duties, and functions vested by law in the Governor or in the office of Governor are

continued except as otherwise provided by the Executive Organization Act of 1973.

The immediate staff of the Governor shall not be subject to the State Personnel Act.

Sec. 6. *Principal departments.*—(a) In addition to the principal departments enumerated in the Executive Organization Act of 1971, all executive and administrative powers, duties, and functions not including those of the General Assembly and its agencies, the General Court of Justice and the administrative agencies created pursuant to Article IV of the Constitution of North Carolina, and Higher Education previously vested by law in the several State agencies, are vested in the following principal departments:

(1) Department of Cultural Resources

(2) Department of Human Resources

(3) Department of Revenue.

(b) Conforming changes. The following sections of the General Statutes of North Carolina are hereby repealed: G.S. 143A-11(14), G.S. 143A-11(17), and G.S. 143A-11(18).

Sec. 7. *Continuation of functions.*—Each principal State department shall be considered a continuation of the former agencies to whose power it has succeeded for the purpose of succession to all rights, powers, duties, and obligations of the former agency. Where a former agency is referred to by law, contract, or other document, that reference shall apply to the principal State department now exercising the functions of the former agency.

Sec. 8. *Unassigned functions.*—All functions, duties, and responsibilities established by law that are not specifically assigned to any principal State department may be assigned by the Governor to that department which, in accordance with the organization of State government, can most appropriately and effectively perform those functions, duties, and responsibilities. This provision shall not apply to professional and occupational licensing boards or to higher education.

Sec. 9. *Appointment of officers and employees.*—The head of each principal State department, except those departments headed by popularly-elected officers, shall be appointed by the Governor and serve at his pleasure.

The salary of the head of each of the principal State departments, except in those departments headed by popularly-elected officers shall, upon the recommendation of the Governor, be set by the General Assembly. The salaries of elected officials shall be as prescribed by law.

The head of a principal State department shall appoint a chief deputy or chief assistant, and such chief deputy or chief assistant shall not be subject to the State Personnel Act. The salary of such chief deputy or chief assistant shall, upon the recommendation of the Governor, be set by the General Assembly. Unless otherwise provided for in the Executive Organization Act of 1973, and subject to the provisions of the Personnel Act, the head of each principal State department shall designate the administrative head of each transferred agency and all employees of each division, section, or other unit of the principal State department.

Sec. 10. *Powers and duties of heads of principal departments.*—(a) Assignment of functions. - Except as otherwise provided by this Chapter, the head of each principal State department may assign or reassign any function

vested in him or in his department to any subordinate officer or employee of his department.

(b) Reorganization by department heads. - With the approval of the Governor, each head of a principal State department may establish or abolish within his department any division. Each head of a principal State department may establish or abolish within his department any other administrative unit to achieve economy and efficiency and in accordance with sound administrative principles, practices, and procedures except as otherwise provided by law.

(c) Department staffs. - The head of each principal State department may establish necessary subordinate positions within his department, make appointments to those positions, and remove persons appointed to those positions, all within the limitations of appropriations and subject to the State Personnel Act. All employees within a principal State department shall be under the supervision, direction, and control of the head of that department. The head of each principal State department may establish or abolish positions, transfer officers and employees between positions, and change the duties, titles, and compensation of existing offices and positions as he deems necessary for the efficient functioning of the department, subject to the State Personnel Act and the limitations of available appropriations. For the purposes of the foregoing provisions, a member of a board, commission, council, committee, or other citizen group shall not be considered an "employee within a principal department."

(d) The head of each principal department may create and appoint committees or councils to consult with and advise the department. The members of any committee or council created by the head of a principal department shall serve at the pleasure of the head of the principal department and may be paid per diem and necessary travel and subsistence expenses within the limits of appropriations and in accordance with the provisions of G.S. 138-5.

(e) Departmental management functions. - All management functions of a principal State department shall be performed by or under the direction and supervision of the head of that principal State department. Management functions shall include planning, organizing, staffing, directing, coordinating, reporting, and budgeting.

(f) Custody of records. - The head of a principal State department shall have legal custody of all books, papers, documents, and other records of the department.

(g) Budget preparation. - The head of a principal State department shall be responsible for the preparation of and the presentation of the department budget request which shall include all funds requested and all receipts expected for all elements of the department.

(h) Plans and reports. - Each principal State department shall submit to the Governor an annual plan of work for the next fiscal year prior to the beginning of that fiscal year. Each principal State department shall submit to the Governor an annual report covering programs and activities for each fiscal year. These plans of work and annual reports shall be made available to the General Assembly. These documents will serve as the base for the development of budgets for each principal State department of State government to be submitted to the Governor.

(i) Reports to Governor, public hearings. - Each head of a principal State department shall develop and report to the Governor legislative, budgetary, and

administrative programs to accomplish comprehensive, long-range coordinated planning and policy formulation in the work of his department. To this end, the head of the department may hold public hearings, consult with and use the services of other State agencies, employ staff and consultants, and appoint advisory and technical committees to assist in the work.

(j) Departmental regulations. - The head of each principal State department may adopt regulations, consistent with law and with rules established by the Governor and with the rules and regulations of the State Personnel Board, for

- (1) the administration of his department;
- (2) the conduct of employees of his department;
- (3) the distribution and performance of business; and
- (4) the custody, use, and preservation of the records, documents, and property pertaining to department business.

Sec. 11. Subunit nomenclature.—(a) The principal subunit of a department is a division. Each division shall be headed by a director.

(b) The principal subunit of a division is a section. Each section shall be headed by a chief.

(c) If further subdivision is necessary, sections may be divided into subunits which shall be known as branches and which shall be headed by heads, and branches may be divided into subunits which shall be known as units and which shall be headed by supervisors.

Sec. 12. Internal organization of departments; allocation and reallocation of duties and functions; limitations.—The Governor shall cause the administrative organization of each department to be examined periodically with a view to promoting economy, efficiency, and effectiveness. The Governor may assign and reassign the duties and functions of the executive branch among the principal State departments except as otherwise expressly provided by statute. When the changes affect existing law, they must be submitted to the General Assembly in accordance with Article III, Section 5(10) of the Constitution of North Carolina.

Sec. 13. Appointment, qualifications, terms, and removal of members of commissions.—(a) Each member of a commission created by or under the authority of the Executive Organization Act of 1973 shall be a resident of the State of North Carolina, unless otherwise specifically authorized by law.

Unless more restrictive qualifications are provided in the Executive Organization Act of 1973, the Governor shall appoint each member on the basis of interest in public affairs, good judgment, knowledge, and ability in the field for which appointed, and with a view to providing diversity of interest and points of view in the membership.

The balance of unexpired terms of existing commission members shall be served in accordance with their most recent appointment.

A vacancy occurring during a term of office is filled in the same manner as the original appointment is made and for the balance of the unexpired term, unless otherwise provided by law or by the Constitution of North Carolina.

(b) A commission membership becomes vacant on the happening of any of the following events before the expiration of the term: (1) the death of the incumbent, (2) his insanity as determined by final judgment or final order of a court of competent jurisdiction, (3) his resignation, (4) his removal from office, (5) his ceasing to be a resident of the State, (6) his ceasing to discharge the

duties of his office over a period of three consecutive months except when prevented by sickness, (7) his conviction of a felony or of any offense involving a violation of his official duties, (8) his refusal or neglect to take an oath within the time prescribed, (9) the decision of a court of competent jurisdiction declaring void his appointment, and (10) his commitment to a hospital or sanitarium by a court of competent jurisdiction as a drug addict, a dipsomaniac, an inebriate, or stimulant addict; but in that event, the office shall not be considered vacant until the order of commitment has become final.

(c) No member of any State commission may: (1) use his position to influence any election or the political activity of any person, (2) serve as a member of the campaign committee of any political party, (3) interfere with or participate in the preparation for any election or the conduct thereof at the polling place, or (4) be in any manner concerned with the demanding, soliciting, or receiving of any assessments, subscriptions, or contributions, whether voluntary or involuntary, to any political party or candidate. Any commission member who shall violate any of the provisions of this section shall be subject to dismissal from office by the Governor.

(d) In addition to the foregoing, any member of a commission may be removed from office by the Governor for misfeasance, malfeasance, and nonfeasance.

(e) Any appointment by the Governor to a commission, board, council or committee made subsequent to January 5, 1973, and prior to the effective date of this act, for a term that would extend for a period inconsistent with the staggered term provisions of the Executive Organization Act of 1973, may be reduced by the Governor to conform to those staggered term provisions.

Sec. 14. *Administrative services to commissions.*—(a) The head of the principal State department to which a commission has been assigned is responsible for the provision of all administrative services to the commission.

(b) Except as otherwise provided in the Executive Organization Act of 1973, the powers, duties, and functions of a commission (including but not limited to rule making, regulation, licensing, and promulgation of rules, rates, regulations, and standards, and the rendering of findings, orders, and adjudications) shall not be subject to the approval, review, or control of the head of the department or of the Governor.

(c) The Governor may assign to an appropriate commission created by the Executive Organization Act of 1973 duties of a quasi-legislative and quasi-judicial nature existing in the executive branch of State government which have not been assigned by this Chapter to any other commission. All such assignment of duties by the Governor to a commission shall be made by an executive order which has the force and effect of law upon issuance but must be submitted to the General Assembly in accordance with Article III, Section 5(10) of the Constitution of North Carolina.

(d) All management functions of a commission shall be performed by the head of the principal State department. Management functions shall include planning, organizing, staffing, directing, coordinating, reporting, and budgeting.

Sec. 15. *Compensation of members of commissions.*—The salary of members of full-time commissions shall be set by the General Assembly upon recommendation of the Governor to be submitted as a part of his budget requests.

Sec. 16. *Appointment and removal of members of boards, councils, and committees.*—Unless more restrictive qualifications are provided in this act, the Governor shall appoint each member of a board, council, or committee on the basis of his interest in public affairs, good judgment, knowledge and ability in the field for which appointed, and with a view to providing diversity of interest and points of view in the membership. Unless other conditions are provided in the Executive Organization Act of 1973, any member of a board council, or committee may be removed from office by the Governor for misfeasance, malfeasance, or nonfeasance.

Sec. 17. *Commission investigations and orders.*—Unless otherwise provided for in the Executive Organization Act of 1973, any commission created by the Executive Organization Act of 1973 may order an investigation into areas of concern over which it has rule-making authority, and the head of the department required to give staff support to such commission shall render such reports and information as the commission may require. In default of the production of information by the head of the principal department or any employee or agent thereof, the commission may seek the aid of the Wake County Superior Court to require the production of information as hereinafter provided.

In proceedings before any commission or any hearing officer or member of the commission so authorized by the commission, if any person refuses to respond to a subpoena, or refuses to take the oath or affirmation as a witness or thereafter refuses to be examined or refuses to obey any lawful order of a commission contained in its decision rendered after hearing, the chairman of the commission may apply to the Superior Court of Wake County or to the Superior Court of the county where the proceedings are being held for an order directing that person to take the requisite action. Should any person willfully fail to comply with an order so issued, the Court shall punish him as for contempt.

Sec. 18. *Commission rules and regulations, filing, hearing, copies.*—Any rules and regulations adopted by any commission created by the Executive Organization Act of 1973 shall state the effective date and shall be filed as required by law.

A public hearing with at least ten days' notice advertised in at least three newspapers with general circulation shall be required prior to the adoption of any rules and regulations other than rules and regulations inapplicable to the public at large intended solely as administrative procedures of the commission.

Sufficient copies of adopted rules and regulations shall be made available to interested citizens upon request.

Certified copies of such rules and regulations and amendments thereto shall be received in evidence in all courts and other official proceedings in the State, when in conformity with the Rules of Civil Procedure in G.S. Chapter 1A.

Sec. 19. *Pending actions and proceedings.*—No action or proceeding pending at the time the Executive Organization Act of 1973 takes effect and brought by or against any State agency whose functions, powers, and duties are transferred by the Executive Organization Act of 1973 to a principal State department shall be affected by any provision of the Executive Organization Act of 1973, but the same may be prosecuted or defended in the name of the head of the principal State department. In all such actions and proceedings, the principal State department to which the functions, powers, and duties of a State agency

have been transferred shall be substituted as a party upon appropriate application to the courts.

Sec. 20. *Continuation of rules, regulations, and decisions.*—All rules, regulations, acts, determinations, and decisions of any State agency and commissioners and directors thereof pertaining to the functions transferred and assigned by the Executive Organization Act of 1973 to a principal State department or commission and in force at the time of such transfer or assignment shall continue in force and effect as rules, regulations, acts, determinations, and decisions of the principal State department concerned until such time as they may be modified or repealed by the principal State department or commission.

Sec. 21. *Affirmation of prior acts of abolished agencies.*—The abolition of certain agencies by the Executive Organization Act of 1973 should not be construed as invalidating any lawful prior act of such agency.

Sec. 22. *Terms occurring in laws, contracts, and other documents.*—Any reference or designation in any statute, contract, or other document pertaining to functions, powers, obligations, and duties of a State agency assigned by the Executive Organization Act of 1973 to a principal State department shall be deemed to refer to the principal State department or the head of the principal State department, as may be appropriate.

Sec. 23. *Completion of unfinished business.*—Any business or other matter undertaken or commenced by any State agency or the commissioners or directors thereof, pertaining to or connected with the functions, powers, obligations, and duties hereby transferred to a principal State department, and pending on the effective date of this Chapter, may be conducted and completed by the principal State department in the same manner and under the same terms and conditions and with the same effect as if conducted and completed by the State agency or commissioners and directors thereof.

Sec. 24. *Cooperative Agreements.*—Except as otherwise provided by law, each principal State department may, with the approval of the Department of Administration, enter into cooperative agreements with the federal government, any state government, any agency of the State government, any local government of the State, jointly with any two or more, or severally, in carrying out its functions.

Sec. 25. *Agencies not enumerated.*—Any agency not enumerated in the Executive Organization Act of 1973 but established or created by the General Assembly shall continue to exercise all its powers, duties, and functions subject to the provisions of Chapter 143A of the General Statutes of the State of North Carolina.

Sec. 26. *Constitutional references.*—All references to the Constitution of North Carolina in the Executive Organization Act of 1973 refer to the Constitution of North Carolina as effective July 1, 1973.

Sec. 27. *Transfer of funds by Governor.*—To implement the Executive Organization Act of 1973, the Governor with the approval of the Advisory Budget Commission shall have the authority to transfer all or a part of any appropriations or funds of an agency to the department to which such agency is transferred.

Sec. 28. *Goals of continuing reorganization.*—Structural reorganization of State government should be a continuing process, accomplished through careful executive and legislative appraisal of the placement of proposed new

programs and coordination of existing programs in response to changing emphases in public needs and should be consistent with the following goals:

(1) The organization of State government should assure its responsiveness to popular control. It is the goal of reorganization to improve the administrative capability of the executive to carry out these policies.

(2) The organization of State government should aid communication between citizens and government. It is the goal of reorganization through coordination of related programs in function-oriented departments to improve public understanding of government programs and policies and to improve the relationships between citizens and administrative agencies.

(3) The organization of State government should assure efficient and effective administration of the policies established by the General Assembly. It is the goal of reorganization to promote efficiency and effectiveness by improving the management and coordination of State services and by eliminating ineffective, overstaffed, obsolete or overlapping activities.

DEPARTMENT OF CULTURAL RESOURCES

Sec. 29. *Department of Cultural Resources; creation, powers, and duties.*—There is hereby created a department to be known as the "Department of Cultural Resources," with the organization, duties, functions, and powers defined in the Executive Organization Act of 1973.

Sec. 30. *Duties of the Department.*—It shall be the duty of the Department to provide the necessary management, development of policy and establishment and enforcement of standards for the furtherance of resources, services and programs involving the arts and the historical and cultural aspects of the lives of the citizens of North Carolina.

Sec. 31. *Functions of the Department.*—(a) The functions of the Department of Cultural Resources shall comprise, except as otherwise expressly provided by the Executive Organization Act of 1973 or by the Constitution of North Carolina, all executive functions of the State in relation to the development and preservation of libraries, historical records, sites and property, and of an appreciation of art and music and further including those prescribed powers, duties, and functions enumerated in Article 17 of Chapter 143A of the General Statutes of this State.

(b) All such functions, powers, duties, and obligations heretofore vested in any agency enumerated in Article 17 of Chapter 143A of the General Statutes are hereby transferred to and vested in the Department of Cultural Resources except as otherwise provided by the Executive Organization Act of 1973. They shall include, by way of extension and not of limitation, the functions of: (1) The Secretary and Department of Art, Culture and History; (2) the State Department of Archives and History; (3) the North Carolina Advisory Council on Historic Preservation; (4) the North Carolina State Library; (5) the Interstate Library Compact; (6) the North Carolina Museum of Art; (7) the North Carolina State Art Society, Inc.; (8) the North Carolina Symphony Society, Inc.; (9) the State Art Museum Building Commission; (10) the Library Certification Board; (11) the Tryon Palace Commission; (12) the North Carolina Arts Council; (13) the U.S.S. North Carolina Battleship Commission; (14) the Memorials Commission; (15) the Commission to Promote Plans for the Celebration of the Four Hundredth Anniversary of the Landing of Sir Walter Raleigh's Colony on Roanoke Island; (16) the Executive Mansion Fine Arts Commission; (17) the North Carolina American Revolution Bicentennial

Commission; (18) the North Carolina Awards Commission; (19) the Tobacco Museum Board; (20) the Roanoke Island Historical Association, Inc.; (21) the Sir Walter Raleigh Memorial Commission; (22) the Governor Richard Caswell Memorial Commission; (23) the Historic Swansboro Commission; (24) the Edenton Historical Commission; (25) the Historic Bath Commission; (26) the Historic Hillsborough Commission; (27) the John Motley Morehead Memorial Commission; (28) the Historic Murfreesboro Commission; (29) the Charles B. Aycock Memorial Commission; (30) the Frying Pan Lightship Marine Museum Commission; (31) the Guilford County Bicentennial Commission; (32) the Daniel Boone Memorial Commission; (33) the Bennett Place Memorial Commission; (34) the Durham-Orange Historical Commission; (35) the Pitt County Historical Commission; (36) the Transylvania County Historical Commission; (37) the Lenoir County Historical and Patriotic Commission; (38) the Raleigh Historic Sites Commission; and (30) the Stonewall Jackson Memorial Fund.

Sec. 32. *Head of the Department.*—The Secretary of Cultural Resources shall be the head of the Department.

Sec. 33. *Organization of the Department.*—The Department of Cultural Resources shall be organized initially to include the Art Commission, the Art Museum Building Commission, the North Carolina Historical Commission, the Tryon Palace Commission, the U.S.S. North Carolina Battleship Commission, the Sir Walter Raleigh Commission, the Executive Mansion Fine Arts Committee, the American Revolution Bicentennial Committee, the North Carolina Awards Committee, the America's Four Hundredth Anniversary Committee, the North Carolina Arts Council, the Public Librarian Certification Commission, the State Library Committee, the North Carolina Symphony Society, Inc., the North Carolina Art Society, and the Division of the State Library, the Division of Archives and History, the Division of the the Arts, and such other divisions as may be established under the provisions of the Executive Organization Act of 1973.

Sec. 34. *Art Commission; creation, powers and duties.*—There is hereby created the Art Commission of the Department of Cultural Resources with the power and duty to promulgate rules and regulations concerning the acquisition and disposal of art objects for the State of North Carolina and with the power and duty to adopt, amend, and rescind rules and regulations under, and not inconsistent with the laws of the State necessary to carry out the provisions and purposes of this Article.

(a) The Art Commission shall have the following powers and duties:

(1) in consultation with the Secretary of Cultural Resources, on behalf of and in the name of the North Carolina Museum of Art, to acquire by purchase, gift or will, absolutely or in trust, from individuals, corporations, the federal government, or from any other source, money or other property which may be retained, sold, or otherwise used to promote the purposes of the North Carolina Museum of Art as provided by G.S. 140-2;

(2) in consultation with the Secretary of Cultural Resources to exchange works of art owned by the North Carolina Museum of Art for other works of art which, in the opinion of the Commission, would improve the quality, value, or representative character of the art collection of the Museum as provided by G.S. 140-2;

(3) in consultation with the Secretary of Cultural Resources to sell any work of art owned by the North Carolina Museum of Art as provided by G.S. 140-2;

(4) to approve prior to acceptance any gift of artistic value given to the State as provided in Chapter 100 of the General Statutes of North Carolina;

(5) to advise the Secretary concerning the inspection, appraisal, obtaining attributions and evaluations of, transporting, exhibiting, lending, storing, receiving upon consignment or as loans, statuary, paintings, and other works of art of any and every kind and description which are worthy of acquisition, preservation, and exhibition by the North Carolina Museum of Art; and

(6) to advise the Secretary on the care, custody, storage and preservation of all works of art acquired by the North Carolina Museum of Art, or received by it upon consignment or loan.

(b) The Commission shall make rules and regulations consistent with the provisions of this Chapter. All rules and regulations heretofore adopted by the Board of Trustees of the State Art Museum, the Memorials Commission, and the Executive Mansion Fine Arts Commission shall remain in full force and effect unless and until repealed or superseded by action of the Art Commission. All rules and regulations adopted by the Commission shall be enforced by the Department of Cultural Resources.

Sec. 35. *Art Commission; members, selection, quorum, compensation.*—The Art Commission of the Department of Cultural Resources shall consist of eleven members appointed by the Governor, four of whom shall be appointed upon the nomination of the State Art Society. Two of the members, whether appointed by the Governor or upon nomination of the State Art Society shall be members of the art or design faculty at a North Carolina college or university. The initial members of the Commission shall include the four members of the Art Museum Board of Trustees whose terms on the Art Museum Board of Trustees expire July 1, 1976, and who shall serve for a period equal to the remainder of their current terms on the Art Museum Board of Trustees. Of the four nominated by the North Carolina Art Society, two shall be appointed for an initial term of one year and two shall be for an initial term of five years. Of the three appointed by the Governor, two shall be appointed for initial terms of one year and one shall be for an initial term of five years. At the end of the respective terms of office of the initial members of the Commission, their successors shall be appointed for terms of six years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Commission from office for misfeasance, malfeasance, or nonfeasance in accordance with the provisions of Section 13 of the Executive Organization Act of 1973.

The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Commission shall constitute a quorum for the transaction of business.

All clerical and other services required by the Commission shall be supplied by the Secretary of Cultural Resources.

Sec. 36. Officers of the Art Commission.—The Art Commission shall have a chairman and a vice-chairman. The chairman shall be designated by the Governor from among the members of the Commission to serve as chairman at the pleasure of the Governor. The vice-chairman shall be elected by and from the members of the Commission and shall serve for a term of two years or until the expiration of his regularly appointed term.

Sec. 37. Regular and special meetings.—The Art Commission shall meet at least once in each quarter and may hold special meetings at any time and place within the State at the call of the chairman or upon the written request of at least five members.

Sec. 38. Art commission; conforming changes.—(a) (1) Whenever the words “Board of Trustees of the North Carolina Museum of Art” or “Board of Trustees” or “Board,” when referring to the Board of Trustees of the North Carolina Museum of Art, are used or appear in any statute or law of this State, the same shall be deleted and the words “Department of Cultural Resources” or “Department,” as appropriate shall be inserted in lieu thereof, unless otherwise provided for in the Executive Organization Act of 1973. With the exception that in the following references, the words “Board of Trustees of the North Carolina Museum of Art,” “Board of Trustees,” or “Board,” when referring to the Board of Trustees of the North Carolina Museum of Art shall be deleted and the words “Art Commission” or “Commission,” as appropriate, shall be inserted in lieu thereof: G.S. 140-2(d), line 1; G.S. 140-3(c)(1), line 3; and G.S. 140-3(c)(3).

(b) In addition to the foregoing, the following amendments to the General Statutes of North Carolina are hereby made:

(1) The words “shall be the governing body of the North Carolina Museum of Art, and” shall be deleted from lines 1 and 2 of G.S. 140-2(d).

(2) The words “under the supervision of the Board of Trustees” shall be deleted from line 1 of G.S. 140-3(c)(1).

(3) The word “policies” shall be deleted from line 2 of G.S. 140-3(c)(1).

(c) The following sections of the General Statutes of North Carolina are hereby repealed: G.S. 140-2(a); G.S. 140-2(b); G.S. 140-2(c); G.S. 140-2(d)(3); G.S. 140-2(d)(4); G.S. 140-2(d)(5); G.S. 140-2(d)(6); G.S. 140-2(d)(10); G.S. 140-3(a); G.S. 140-3(b); G.S. 140-3(c)(2).

Sec. 39. Art Museum Building Commission; creation, powers and duties.—There is hereby re-created the Art Museum Building Commission of the Department of Cultural Resources and the State Art Museum Building Commission shall have the following powers and duties:

(1) With the approval of the Governor and Council of State and the North Carolina State Capital Planning Commission to determine the site for the building of the State Art Museum in accordance with directions, if any, from the General Assembly.

(2) To employ architects to prepare plans for the State Art Museum Building, to assist and advise the architects in the preparation of those plans, and to approve on behalf of the State all plans for the State Art Museum Building.

(3) To enter on behalf of the State into contracts for the construction of an art museum building and the employment of consultants and for the purchase of services, materials, furnishings, and equipment required in connection with the location, design, construction, furnishing, and equipping of said museum building.

(4) To supervise generally the location, construction, furnishing, equipping, renovating and care of the State Art Museum Building.

(5) To call upon the Department of Administration, the Attorney General, and any other State agency or officer for such assistance as the Commission may require in carrying out its duties.

(6) To appoint such advisory committees, composed of persons not members of the Commission, as the Commission deems necessary.

(7) To report to the General Assembly at each regular session concerning action taken by the Commission during the previous biennium in carrying out the provisions of this Article, and to make such special reports as may be requested by the General Assembly or the Governor.

(8) To receive gifts of funds from foundations, corporations and individuals and to receive public funds to aid in defraying the cost of said building and surrounding facilities including landscaping.

Sec. 40. *Art Museum Building Commission; members, selection, quorum, compensation.*—The Art Museum Building Commission of the Department of Cultural Resources shall consist of 15 members with nine appointed by the Governor, three persons who have served in the State Senate to be appointed by the President of the Senate, and three persons who have served in the House of Representatives to be appointed by the Speaker of the House of Representatives. The initial members of the Commission shall be the members of the existing Art Museum Building Commission who shall serve until the completion of the duties assigned to the Commission. Each vacancy occurring in the membership shall be filled by appointment of the officer authorized to make the initial appointment to the place vacated, and each appointee to fill a vacancy shall have the same qualifications prescribed by this Article for the appointee whom he succeeds.

The Governor shall have the power to remove any member of the Commission from office for misfeasance, malfeasance, or nonfeasance in accordance with the provisions of Section 13 of the Executive Organization Act of 1973.

The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provision of G.S. 138-5.

A majority of the Commission shall constitute a quorum for the transaction of business.

All clerical and other services required by the Commission shall be supplied by the Secretary of Cultural Resources.

Sec. 41. *Officers of the Art Museum Building Commission.*—The Governor shall appoint one member of the Commission to serve as chairman.

Sec. 42. *Regular and special meetings.*—The Art Museum Building Commission shall meet at least once in each quarter and may hold special meetings at any time and place within the State at the call of the chairman or upon the written request of at least eight members.

Sec. 43. *Art Museum Building Commission; conforming changes.*—The following section of the General Statutes of North Carolina is hereby repealed: G.S. 140-5.2.

Sec. 44. *North Carolina Historical Commission; creation, powers, and duties.*—There is hereby created the North Carolina Historical Commission of the Department of Cultural Resources to give advice and assistance to the Secretary of Cultural Resources and to promulgate rules and regulations to be

followed in the acquisition, disposition, preservation, and use of records, artifacts, real and personal property, and other materials and properties of historical, archaeological, architectural, or other cultural value, and in the extension of State aid to other agencies, counties, municipalities, organizations, and individuals in the interest of historic preservation.

(a) The Historical Commission shall have the following powers and duties:

(1) to advise the Secretary of Cultural Resources on the scholarly editing, writing, and publication of historical materials to be issued under the name of the Department;

(2) to evaluate and approve proposed nominations of historic, archaeological, architectural, or cultural properties for entry on the National Register of Historic Places;

(3) to evaluate and approve the State plan for historic preservation as provided for in G.S. Chapter 121;

(4) to evaluate and approve historic, archaeological, architectural, or cultural properties proposed to be acquired and administered by the State;

(5) to evaluate and prepare a report on its findings and recommendations concerning any property not owned by the State for which State aid or appropriations are requested, and to submit its findings and recommendations in accordance with G.S. Chapter 121;

(6) to serve as an advisory and coordinative mechanism in and by which State undertakings of every kind that are potentially harmful to the cause of historic preservation within the State may be discussed, and where possible, resolved, particularly by evaluating and making recommendations concerning any State undertaking which may affect a property that has been entered on the National Register of Historic Places as provided for in Chapter 121 of the General Statutes of North Carolina;

(7) to exercise any other powers granted to the Commission by provisions of Chapter 121 of the General Statutes of North Carolina; and

(8) to give its professional advice and assistance to the Secretary of Cultural Resources on any matter which the Secretary may refer to it in the performance of the Department's duties and responsibilities provided for in Chapter 121 of the General Statutes of North Carolina.

(b) The Historical Commission shall have the power and duty to establish standards and provide rules and regulations as follows:

(1) for the acquisition and use of historical materials suitable for acceptance in the North Carolina State Archives or the North Carolina Museum of History;

(2) for the disposition of public records under provisions of Chapter 121 of the General Statutes of North Carolina; and

(3) for the certification of records in the North Carolina State Archives as provided in Chapter 121 of the General Statutes of North Carolina;

(4) for the use by the public of historic, architectural, archaeological, or cultural properties as provided in Chapter 121 of the General Statutes of North Carolina;

(5) for the acquisition of historic, archaeological, architectural, or cultural properties by the State;

(6) for the extension of State aid or appropriations to counties, municipalities, organizations, or individuals for the purpose of historic preservation or restoration; and

(7) for qualification for grants-in-aid or other assistance from the federal government for historic preservation or restoration as provided in Chapter 121 of the General Statutes of North Carolina. This section shall be construed liberally in order that the State and its citizens may benefit from such grants-in-aid.

(c) The Commission shall adopt rules and regulations consistent with the provisions of this section. All current rules and regulations heretofore adopted by the Executive Board of the State Department of Archives and History, the Historic Sites Advisory Committee, the North Carolina Advisory Council on Historical Preservation, the Executive Mansion Fine Arts Commission, and the Memorials Commission shall remain in full force and effect unless and until repealed or superseded by action of the Historical Commission. All rules and regulations adopted by the Commission shall be enforced by the Department of Cultural Resources.

Sec. 45. *Historical Commission; members, selection, quorum, compensation.*—The Historical Commission of the Department of Cultural Resources shall consist of seven members appointed by the Governor.

The initial members of the Commission shall be the members of the Executive Board of the Department of Archives and History who shall serve for a period equal to the remainder of their current terms on the Executive Board of the Department of Archives and History, two of whose appointments expire March 31, 1973, two of whose appointments expire March 31, 1975, and three of whose appointments expire on March 31, 1977. At the end of the respective terms of office of the initial members of the Commission, their successors shall be appointed for terms of six years and until their successors are appointed and qualify. Of the members, at least four shall have had professional training or experience in the fields of archives, history, historic preservation, or museums administration including at least two current faculty members of graduate history departments at North Carolina colleges or universities. Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Commission from office for misfeasance, malfeasance or nonfeasance according to the provisions of Section 13 of the Executive Organization Act of 1973.

The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Commission shall constitute a quorum for the transaction of business.

All clerical and other services required by the Commission shall be supplied by the Secretary of Cultural Resources.

Sec. 46. *Officers of the Historical Commission.*—The Historical Commission shall have a chairman and a vice-chairman. The chairman shall be designated by the Governor from among the members of the Commission to serve as chairman at the pleasure of the Governor. The vice-chairman shall be elected by and from the members of the Commission and shall serve for a term of two years or until the expiration of his regularly appointed term.

Sec. 47. *Regular and special meetings.*—The Historical Commission shall meet at least twice per year and may hold special meetings at any time and

place within the State at the call of the chairman or upon the written request of at least four members.

Sec. 48. *Historical Commission; conforming changes.*—(a)(1) Whenever the words “Department of Archives and History” or “Department” when referring to the Department of Archives and History are used or appear in any statute or law of this State, the same shall be deleted and the words “Department of Cultural Resources” or “Department” as appropriate shall be inserted in lieu thereof unless otherwise provided for in the Executive Organization Act of 1973.

(2) Whenever the words “Director of the Department of Archives and History” or “Director” when referring to the Director of the Department of Archives and History are used or appear in any law of this State, the same shall be deleted and the words “Secretary of Cultural Resources” or “Secretary” as appropriate shall be inserted in lieu thereof unless otherwise provided for in the Executive Organization Act of 1973.

(3) Whenever the words “Memorials Commission” or “said Memorials Commission” or “Commission” when referring to the Memorials Commission are used or appear in any statute or law of this State, the same shall be deleted and the words “the Art Commission or the North Carolina Historical Commission as appropriate” shall be inserted in lieu thereof unless otherwise provided for in the Executive Organization Act of 1973.

(4) Whenever the words “Historic Sites Advisory Committee” or “Advisory Committee” or “Committee” when referring to the Historic Sites Advisory Committee are used or appear in any statute or law of this State, the same shall be deleted and the words “North Carolina Historical Commission”, or “Commission” as appropriate, shall be inserted in lieu thereof unless otherwise provided for in the Executive Organization Act of 1973.

(b) In addition to the foregoing, the following amendments to the General Statutes of North Carolina are hereby made:

(1) G.S. 121-1 through G.S. 121-13.2 of the General Statutes of North Carolina are hereby revised and rewritten to read as follows:

“Article I.

“General Provisions.

“§ 121-1. *Short title.*—This act shall be known as the North Carolina Archives and History Act.

“§ 121-2. *Definitions.*—For the purposes of this act:

(1) ‘Department’ shall mean the Department of Cultural Resources of the State of North Carolina.

(2) ‘Secretary’ shall mean the Secretary of Cultural Resources.

(3) ‘Commission’ shall mean the North Carolina Historical Commission.

(4) ‘Agency’ shall mean any State, county, or municipal office, department, division, board, commission or separate unit of government created or established by constitution or law.

(5) ‘Public record’ or ‘Public records’ shall mean all documents, papers, letters, maps, books, photographs, films, sound recordings, magnetic or other tapes, electronic data processing records, artifacts, or other documentary material, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

(6) 'North Carolina State Archives' shall mean an establishment or establishments administered by the Department of Cultural Resources as the State's official repository for the preservation of those public records or other documentary materials that have been determined by the Department in accordance with rules, regulations, and standards of the Historical Commission to have sufficient historical or other value to warrant their continued preservation and have been accepted by the Department for preservation in its custody.

(7) 'Records Center' or 'Records Centers' shall mean an establishment or establishments administered by the Department of Cultural Resources primarily for the economical housing, processing, servicing, microfilming, or security of public records that must be retained for varying periods of time but which need not be retained in an agency's office equipment and space.

(8) 'North Carolina Museum of History' shall mean an establishment or establishments administered by the Department of Cultural Resources as the official State museum of history for the collection, preservation, and exhibition of artifacts and other materials that have been determined by the Department or by the Commission to have sufficient historical or other cultural value to warrant retention as evidence of the history and culture of the State and its subdivisions.

(9) 'State Historic Site' or 'State Historic Sites' shall mean a property or properties acquired by the State and administered by the Department of Cultural Resources because of its or their historical, archaeological, architectural, or cultural value in depicting the heritage of the State.

(10) 'Historic property' or 'Historic properties' shall mean any building, structure, object, district, area, or site that is significant in the history, architecture, archaeology, or culture of this State, its communities, or the nation.

(11) 'Historic preservation' shall mean any activity reasonably related to the identification, research, conservation, protection, and restoration, maintenance, or operation of buildings, structures, objects, districts, areas, and sites significant in the history, architecture, archaeology, or culture of this State, its communities, or the nation.

"§ 121-3. *Name*.—The archival and historical agency of the State of North Carolina shall be the Department of Cultural Resources.

"§ 121-4. *Powers and duties of the Department of Cultural Resources*.—The Department of Cultural Resources shall have the following powers and duties:

(1) To accept gifts, bequests, devises, and endowments for purposes which fall within the general legal powers and duties of the Department. Unless otherwise specified by the donor or legator, the Department may either expend both the principal and interest of any gift or bequests or may invest such funds in whole or in part, by and with the consent of the State Treasurer.

(2) To conduct a records management program, including the operation of a Records Center or Centers and a centralized microfilming program, for the benefit of all State agencies, and to give advice and assistance to public officials and agencies in matters pertaining to the economical and efficient maintenance and preservation of public records.

(3) To preserve and administer, in the North Carolina State Archives, such public records as may be accepted into its custody, and to collect, preserve, and administer private and unofficial historical records and other documentary

materials relating to the history of North Carolina and the territory included therein from the earliest times. The Department shall carefully protect and preserve such materials, file them according to approved archival practices, and permit them, at reasonable times and under the supervision of the Department, to be inspected, examined, or copied: Provided, that any materials placed in the keeping of the Department under special terms or conditions restricting their use shall be made accessible only in accordance with such terms or conditions.

(4) To have materials on the history of North Carolina properly edited, published as other State printing, and distributed under the direction of the Department. The Department may charge a reasonable price for such publications and devote the revenue arising from such sales to the work of the Department.

(5) With the cooperation of the Department of Public Education, to develop, conduct, and assist in the coordination of a program for the better and more adequate teaching of State and local history in the public schools and the institutions of the community college system of North Carolina, including, as appropriate the preparation and publication of suitable histories of all counties and of other appropriate materials, the distribution of such materials to the public schools and community college system for a reasonable charge, and the coordination of this program throughout the State.

(6) To maintain and administer the North Carolina Museum of History, to collect and preserve therein important historical and cultural materials, and according to approved museum practices to classify, accession, house, and when feasible exhibit such materials and make them available for study.

(7) To select suitable sites on property owned by the State of North Carolina, or any subdivision of the State, for the erection of historical markers calling attention to nearby historic sites and prepare appropriate inscriptions to be placed on such markers. The Department shall have all markers manufactured, and when completed, each marker shall be delivered to the Department of Transportation and Highway Safety for payment and erection under the provisions of G.S. 136-42.2 and G.S. 136-42.3. The Secretary is authorized to appoint a highway historical marker advisory committee to approve all proposed highway historical markers and to establish criteria for carrying out this responsibility.

(8) In accordance with Section 121-9 of this Chapter, to acquire real and personal properties that have statewide historical, architectural, archaeological, or other cultural significance, by gift, purchase, devise, or bequest; to preserve and administer such properties; and, when necessary, to charge reasonable admission fees to such properties. In the acquisition of such property, the Department shall also have the authority to acquire nearby or adjacent property adjacent to properties having statewide significance deemed necessary for the proper use, administration, and protection of historic, architectural, archaeological, or cultural properties, or for the protection of the environment thereof.

(9) To administer and enforce reasonable rules adopted and promulgated by the Historical Commission for the regulation of the use by the public of such historical, architectural, archaeological, or cultural properties under its charge, which regulations, after having been posted in conspicuous places on and adjacent to such State properties and having been filed according to law, shall have the force and effect of law and any violation of such regulations shall

constitute a misdemeanor and shall be punishable by a fine of not more than fifty dollars (\$50.00) or by imprisonment not to exceed thirty days.

(10) To coordinate the objectives of the State-created historical and commemorative commissions with the other policies, objectives, and programs of the Department of Cultural Resources.

(11) To organize and administer a junior historian program, in cooperation with the Department of Public Education, the public schools, and other agencies or organizations that may be concerned therein.

(12) With the approval of the Historical Commission, to dispose of any accessioned records, artifacts, and furnishings in the custody of the Department that are determined to have no further use or value for official or administrative purposes or for research and reference purposes.

(13) To promote and encourage throughout the State knowledge and appreciation of North Carolina history and heritage by encouraging the people of the State to engage in the preservation and care of archives, historical manuscripts, museum items, and other historical materials; the writing and publication of State and local histories of high standard; the display and interpretation of historical materials; the marking and preservation of historic, architectural, or archaeological structures and sites of great importance; the teaching of North Carolina and local history in the schools and colleges; the appropriate observance of events of importance to the State's history; the publicizing of the State's history through media of public information; and other activities in historical and allied fields.

“§121-5. *Public records and archives.*—(a) State Archival Agency Designated. The Department of Cultural Resources shall be the official archival agency of the State of North Carolina with authority as provided throughout this Chapter and Chapter 132 of the General Statutes of North Carolina in relation to the public records of the State, counties, municipalities, and other subdivisions of government.

(b) Destruction of Records Regulated. No person may destroy, sell, loan, or otherwise dispose of any public record without the consent of the Department of Cultural Resources. Whoever unlawfully removes a public record from the office where it is usually kept, or alters, mutilates, or destroys it shall be guilty of a misdemeanor and upon conviction fined at the discretion of the court.

When the custodian of any official State records certifies to the Department of Cultural Resources that such records have no further use or value for official and administrative purposes and when the Department certifies that such records appear to have no further use or value for research or reference, then such records may be destroyed or otherwise disposed of by the agency having custody of them.

When the custodian of any official records of any county, city, municipality, or other subdivision of government certifies to the Department that such records have no further use or value for official business and when the Department certifies that such records appear to have no further use or value for research or reference, then such records may be authorized by the governing body of said county, city, municipality, or other subdivision of government to be destroyed or otherwise disposed of by the agency having custody of them. A record of such certification and authorization shall be entered in the minutes of the governing body granting the authority.

The North Carolina Historical Commission is hereby authorized and empowered to make such orders, rules, and regulations as may be necessary and proper to carry into effect the provisions of this section. When any State, county, municipal, or other governmental records shall have been destroyed or otherwise disposed of in accordance with the procedure authorized in this subsection, any liability that the custodian of such records might incur for such destruction or other disposal shall cease and determine.

(c) Assistance to Public Officers. The Department of Cultural Resources shall have the right to examine into the condition of public records and shall, subject to the availability of staff and funds, give advice and assistance to public officials and agencies in regard to preserving or disposing of the public records in their custody. When requested by the Department of Cultural Resources, public officials shall assist the Department in the preparation of an inclusive inventory of records in their custody, to which inventory shall be attached a schedule, approved by the head of the governmental unit or agency having custody of the records and the Department of Cultural Resources, establishing a time period for the retention or disposal of each series of records. So long as such approved schedule remains in effect, destruction or disposal of records in accordance with its provisions shall be deemed to have met the requirements of G.S. 121-5(b).

The Department of Cultural Resources is hereby authorized and directed to conduct a program of inventorying, repairing, and microfilming in the counties for security purposes those official records of the several counties which the Department determines have permanent value, and of providing safe storage for microfilm copies of such records. Subject to the availability of funds, such program shall be extended to the records of permanent value of the cities, municipalities, and other subdivisions of government.

(d) Preservation of Permanently Valuable Records. Public records certified by the Department of Cultural Resources as being of permanent value shall be preserved in the custody of the agency in which the records are normally kept or of the North Carolina State Archives. Any State, county, municipal, or other public official is hereby authorized and empowered to turn over to the Department of Cultural Resources any State, county, municipal, or other public records no longer in current official use, and the Department of Cultural Resources is authorized in its discretion to accept such records, and having done so shall provide for their administration and preservation in the North Carolina State Archives. When such records have been thus surrendered, photocopies, microfilms, typescripts, or other copies of them shall be made and certified under seal of the Department, upon application of any person, which certification shall have the same force and effect as if made by the official or agency by which the records were transferred to the Department of Cultural Resources; and the Department may charge reasonable fees for such copies.

"§ 121-6. *Historical publications.*—(a) General Provisions. It shall be the duty of the Department of Cultural Resources to promote and encourage the writing of North Carolina history and to collect, edit, publish, print, and distribute books, pamphlets, papers, manuscripts, documents, maps, and other materials relating to North Carolina archives and history. The Department of Cultural Resources may establish a reasonable charge for such publications and devote the revenue arising therefrom to such additional publication of materials relating to North Carolina archives and history as may be undertaken by the Department of Cultural Resources. Except for reports, bulletins, and other

publications issued for free distribution, professional materials including books and journals published by the Department of Cultural Resources are hereby expressly excluded from provisions of G.S. 147-50.

(b) **Editing and Publishing of Official Messages and Other Papers of Governor.** During the term of office of each Governor of this State, a copy of all official messages delivered to the General Assembly, addresses, speeches, statements, news releases, proclamations, executive orders, weekly calendars, articles, transcripts of news conferences, lists of appointments, and other official releases and papers of the Governor shall be kept in the Governor's office for delivery to the Department of Cultural Resources at the end of each quarter during the Governor's administration. These papers shall be compiled and a selection made therefrom by a skilled and competent editor. The editor shall edit, according to acceptable scholarly standards, the selected materials which shall be published in a documentary volume as soon as practicable after the conclusion of the term of office of each Governor. If, for any reason, a Governor serves less than a full term, a documentary volume shall be edited and published for such portion of a term as he shall have served. If a Governor serves more than one term, a documentary volume shall be edited and published for each term served. Funds for editorial assistance, printing, binding, and distribution shall be paid from the Contingency and Emergency Fund. The number of copies of each volume to be printed shall be determined by the Department of Cultural Resources in consultation with the Governor whose papers are being published.

“§ 121-7. *Historical museums.*—The Department of Cultural Resources shall maintain and administer the North Carolina Museum of History for the collection, preservation, study, and exhibition of authentic artifacts and other historical materials relating to the history and heritage of North Carolina. The Department, with the approval of the Historical Commission, may acquire, either by purchase, gift, or loan such artifacts and materials, and, having acquired them, shall according to accepted museum practices classify, accession, preserve, and where feasible exhibit such materials and make them available for study. Within available funds, one or more branch museums of history may be established and administered by the Department. The Department of Cultural Resources, subject to the availability of staff and funds, may give technical and professional assistance to nonstate historical museum projects sponsored by governmental agencies and nonprofit organizations.

Insofar as practicable, the North Carolina Museum of History shall accession and maintain records showing provenance, value, location, and other pertinent information on such furniture, furnishings, decorative items, and other objects as have historical or cultural importance and which are owned by or to be acquired by the State for use in the State Capitol and the Executive Mansion, and, upon request of the Department of Administration, any other State-owned building. When any such item or object has been entered in the accession records of the Museum of History, the custodian of such item or object shall, upon its removal from the premises upon which it was located or when it is otherwise disposed of, submit to the Museum of History sufficient details concerning its removal or disposition to permit an adequate entry in the accession records to the end that its location or disposition, and authority for such change, shall be shown therein.

“§ 121-8. *Historic preservation program.*—(a) Historic Preservation Agency Designated. The historic preservation agency of the State of North Carolina shall be the Department of Cultural Resources.

(b) Surveys of Historic Properties. The Department of Cultural Resources shall conduct a continuing statewide survey to identify, document, and record properties having historical, architectural, archaeological, or other cultural significance to the State, its communities, and the nation. Upon approval of the North Carolina Historical Commission, the Secretary or his designee as the State's liaison officer for historic preservation, may nominate appropriate properties for entry in the National Register of Historic Places as established by the National Historic Preservation Act of 1966, Public Law 89-665, 16 U.S.C. Section 470. The Department of Cultural Resources shall maintain a permanent file containing research reports, descriptions, photographs, and other appropriate documentation relating to properties deemed worthy of inclusion in the statewide survey.

(c) Statewide Historic Preservation Plan. The Department of Cultural Resources shall prepare and revise as needed a State plan for historic preservation, which plan, when approved by the North Carolina Historical Commission, shall constitute official State policy for the preservation, or the encouragement of the preservation, of important historic, architectural, archaeological, and other cultural properties in North Carolina.

(d) Cooperation with Federal Government. The Department of Cultural Resources and/or the Department of Administration may enter into and carry out contracts with the federal government or any agency thereof under which said government or agency grants financial or other assistance to the Department of Cultural Resources to further the purposes of this Chapter. Either of the Departments may agree to and comply with any reasonable conditions not inconsistent with State law which are imposed on such grants. Such grants or other assistance may be accepted from the federal government or an agency thereof and expended whether or not pursuant to a contract.

(e) Cooperation with Local Governments. The Department shall, within the limits of staff and available funds, cooperate with and assist counties, cities, municipalities, and other subdivisions of government, and, where appropriate, private individuals and organizations, in promoting historic preservation to the end that important properties which are not owned by the State may be preserved or encouraged to be preserved. Such cooperation and assistance may include but not be limited to reviewing historic preservation plans, evaluating historic properties, and providing technical, financial and professional assistance. The Department may further enter into and carry out contracts with local governments or their agencies and with any private party to further the purposes of this Article.

(f) Continuing Programs. The Department of Cultural Resources shall develop a continuing program of historical, architectural, archaeological, and cultural research and development to include surveys, excavation, salvage, preservation, scientific recording, interpretation, and publication of the State's historical, architectural, archaeological, and cultural resources. A reasonable charge may be made for publications resulting therefrom and the income from such sales may be devoted to the work of the Department.

“§ 121-9. *Historic properties.*—(a) Administration of Properties Acquired by State. Historic or archaeological properties acquired by the State for

administration by the State of North Carolina shall be under the control and administration of the Department of Cultural Resources. Upon approval of the North Carolina Historical Commission and the Secretary of Cultural Resources, the Department of Cultural Resources may, in its discretion, make a contract with any county or municipality within the State or with any nonprofit corporation or organization for the administration of any portion of such property.

(b) Acquisition of Historic Properties. For the purpose of protecting or preserving any property of historical, architectural, archaeological, or other cultural importance to the people of North Carolina, and subject to the provisions of Subchapter II of Chapter 146 of the General Statutes, the Department may, with the approval of the North Carolina Historical Commission, acquire, preserve, restore, hold, maintain, operate, and dispose of such properties, together with such adjacent lands as may be necessary for their protection, preservation, maintenance, and operation. Such property may be real or personal in nature, and in the case of real property, the acquisition may include the fee or any lesser interest therein. Property may be acquired by gift, grant, bequest, devise, lease, purchase, or condemnation pursuant to the provisions of Article 2 of Chapter 40 of the North Carolina General Statutes, or otherwise. Property may be acquired by the Department, using such funds as may be appropriated for the purpose or moneys available to it from any other source.

(c) Interests Which May be Acquired. In the case of real property, the interest acquired shall be limited to that estate, interest, or term deemed by the Department to be reasonably necessary for the continued protection or preservation of the property. The Department may acquire the fee simple title, but where it finds that a lesser interest, including any development right, negative or affirmative easement in gross or appurtenant, covenant, lease, or other contractual right of or to any real property to be the most practical and economical method of protecting and preserving historic property, the lesser interest may be acquired.

(d) Conveyance of Property for Preservation Purposes. In appropriate cases, the Department may acquire or dispose of the fee or lesser interest to any such property for the specific purpose of conveying or leasing the property back to its original owner or of conveying or leasing it to such other person, firm, association, corporation, or other organization under such covenants, deed restrictions, lease, or other contractual arrangements as will limit the future use of the property in such a way as to insure its preservation. Where such action is taken, the property may be conveyed or leased by private sale. In all cases where property is conveyed, it shall be subjected by covenant or otherwise to such rights of access, public visitation, and other conditions or restrictions of operation, maintenance, restoration, and repair as the Department may prescribe, or to such conditions as may be agreed upon between the Department and the grantee or lessee to accomplish the purposes of this section.

(e) Use of Property so Acquired. Any historic property acquired, whether in fee or otherwise, may be used, maintained, improved, restored, or operated by the Department for any public purpose within its powers and not inconsistent with the purpose of the continued preservation of the property. The property shall not be subject to condemnation by the State of North Carolina or any of its

agencies or political subdivisions at any time, unless such method of acquisition is first approved by the Governor and Council of State.

(f) Emergency Acquisition Where Funds Not Immediately Available. If funds or contributions for the acquisition of needed historic property are not available, the Governor and Council of State may, upon the recommendation of the Secretary of Cultural Resources and approval of the North Carolina Historical Commission, allocate from the Contingency and Emergency Fund an amount sufficient to acquire an option on the property or properties, which option shall continue until ninety days after the adjournment *sine die* of the next General Assembly. Upon recommendation of the Secretary and approval of the Historical Commission, the Governor and Council of State may allocate funds from the Contingency and Emergency Fund for the immediate acquisition, preservation, restoration, or operation of historically, archaeologically, architecturally, or culturally important properties. All funds hereinafter appropriated to purchase, restore, maintain, develop, or operate historic or archaeological or other important property shall be administered subject to the provisions of Article 1 of Chapter 143 of the General Statutes unless the statute making the appropriation shall in specific and express terms provide otherwise.

(g) Power to Acquire Property by Condemnation. In the event that a property which has been found by the Department of Cultural Resources to be important for public ownership or assistance is in danger of being sold, used, or neglected to such an extent that its historical or cultural importance will be destroyed or seriously impaired, or that the property is otherwise in danger of destruction or serious impairment, the Department of Cultural Resources, after receiving the approval of the North Carolina Historical Commission and of the Governor and Council of State, may acquire the historic property or any interest therein by condemnation under the provision of Article 2 of Chapter 40 of the General Statutes of North Carolina. The Department of Cultural Resources, upon finding that destruction or serious impairment of the value of the property is imminent, shall file with the Governor and Council of State a report on the importance of the property and the desirability of ownership of the property, or the ownership of an interest therein, by the State of North Carolina. Upon giving their approval, the Governor and Council of State shall cause to have filed such approval with the clerk of the superior court in the county or counties where the property is situated. Until the approval is filed, the power of condemnation may not be exercised. All condemnation proceedings shall be instituted and prosecuted in the name of the State of North Carolina.

(h) Preservation and Custodial Care of State Capitol. The rotunda, corridors, and stairways of the first floor of the State Capitol and all portions of the second, third, and loft floors of the said building shall be placed in the custody of the Department of Cultural Resources; and the Department shall, subject to the availability of funds for the purpose, care for and administer these areas for the edification of present and future generations. The aforesaid areas shall be preserved as historic shrines and shall be maintained insofar as practicable as they shall appear following the restoration of the Capitol. The Department of Cultural Resources is authorized to deny the use of the legislative chambers for meetings in order that they, with their historic furnishings, may be better preserved for posterity; provided, however, that the General Assembly may hold therein such sessions as it may by resolution deem proper.

The Department of Cultural Resources is hereby entrusted with the responsibilities herein specified as being the agency with the experience best qualified to preserve and administer historic properties in a suitable manner. However, for the purposes of carrying out the provisions of this section, it is hereby directed that such cooperation and assistance shall be made available to the said Department of Cultural Resources and such labor supplied, as may be feasible, by the Department of Administration.

The offices and working areas of the first floor as well as all washrooms and the exterior of the Capitol shall remain under the jurisdiction of the Department of Administration: Provided, however, that the Department of Administration shall seek the advice of the Department of Cultural Resources in matters relating to any alteration, renovation, and furnishing of said offices and areas.

“§ 121-10. *Security of Historic Properties.*—(a) Designated Employees Commissioned Special Peace Officers by Governor. Upon application by the Secretary of Cultural Resources, the Governor is hereby authorized and empowered to commission as special peace officers such employees of the Department of Cultural Resources as the Secretary may designate for the purpose of enforcing the laws, rules, and regulations enacted or adopted for the protection, preservation and government of State historic or archaeological properties under the control or supervision of the Department of Cultural Resources. Such employees shall receive no additional compensation for performing the duties of special peace officers under this section.

(b) Powers of Arrest. Any employee of the Department of Cultural Resources commissioned as a special peace officer shall have the right to arrest with warrant any person violating any law, rule, or regulation on or relating to the State historic or archaeological properties under the control or supervision of the Department of Cultural Resources, and shall have power to pursue and arrest without warrant any person violating in his presence any law, rule, or regulation on or relating to said historic and archaeological properties under the control or supervision of the Department of Cultural Resources.

(c) Bond Required. Each employee of the Department of Cultural Resources commissioned as a special peace officer under this section shall give a bond with a good surety, payable to the State of North Carolina in a sum not less than one thousand dollars (\$1,000), conditioned upon the faithful discharge of his duty as such peace officer. The bond shall be duly approved by and filed in the office of the Commissioner of Insurance, and copies of the same, certified by the Commissioner of Insurance, shall be received in evidence in all actions and proceedings in this State.

(d) Oaths Required. Before any employee of the Department of Cultural Resources commissioned as a special peace officer shall exercise any power of arrest under this Article, he shall take the oaths required of public officers before an officer authorized to administer oaths.

“§ 121-11. *Procedures where assistance extended to cities, counties, and other agencies or individuals.*—In consideration of the public purpose thereby achieved, the Department of Cultural Resources may assist any county, city, or other political subdivision, corporation or organization, or private individual in the acquisition, maintenance, preservation, restoration, or development of historic or archaeological property by providing a portion of the cost therefor: Provided, that no acquisition, maintenance, preservation, restoration, or

development of any property, nor any assistance therefor may be made by the State of North Carolina and no contribution for these purposes may be made from State funds until (1) the property or properties shall have been approved for these purposes by the Department of Cultural Resources according to criteria adopted by the North Carolina Historical Commission, (2) the report and recommendations of the Commission have been received and considered by the Department of Cultural Resources, and (3) the Department has found that there is a feasible and practical method of providing funds for the acquisition, restoration, preservation, maintenance, and operation of such property. In all cases where assistance is extended to nonstate owners of property, whether from State funds or otherwise, it shall be a condition of assistance that (1) the property assisted shall, upon its acquisition or restoration, be made accessible to the public at such times and upon such terms as the Department of Cultural Resources shall by rule prescribe; (2) that the plans for preservation, restoration, and development be reviewed and approved by the Department of Cultural Resources; (3) that the expenditure of such funds be supervised by the Department of Cultural Resources; and (4) that such expenditures be accounted to the Department in a manner and at such times as are satisfactory to it.

“§121-12. *North Carolina Historical Commission.*—(a) Protection of Properties on National Register. It shall be the duty of the Historical Commission, meeting at such times and according to such procedures as it shall by rule prescribe, to provide an advisory and coordinative mechanism in and by which State undertakings of every kind that are potentially harmful to the cause of historic preservation within the State may be discussed, and where possible, resolved, giving due consideration to the competing public interests that may be involved. To this end, the head of any State agency having direct or indirect jurisdiction over a proposed State or State-assisted undertaking, or the head of any State department, board, commission, or independent agency having authority to build, construct, operate, license, authorize, assist, or approve any State or State-assisted undertaking, shall, prior to the approval of any State funds for the undertaking, or prior to any approval, license, or authorization, as the case may be, take into account the effect of the undertaking on any district, site, building, structure, or object that is listed in the National Register of Historic Places established pursuant to Public Law 89-665, 16 U.S.C. 470.

Where, in the judgment of the Commission, an undertaking will have an effect upon any listed district, site, building, structure, area, or object, the head of the appropriate State agency shall afford the Commission a reasonable opportunity to comment with regard to such undertaking.

The Historical Commission shall act with reasonable diligence to insure that all State departments, boards, commissions, or agencies potentially affected by the provisions of this section be kept currently informed with respect to the name, location, and other significant particulars of any district, site, building, structure, or object listed or placed upon the National Register of Historic Places. Each affected State department or agency shall furnish, either upon its own initiative or at the request of the Historical Commission such information as may reasonably be required by the Commission for the proper implementation of this section.

(b) *Criteria for State Historic Properties.* The Commission shall prepare and adopt criteria for the evaluation of State Historic Sites and all other real and personal property which it may consider to be of such historic, architectural,

archaeological, or cultural importance as would justify the acquisition and ownership thereof by the State of North Carolina, or for the extension of any assistance or aid thereto by the State, acting by itself or in connection with any county, city, corporation, organization, or individual. The Commission shall cooperate to the fullest practical extent with any local historical organization and with any city or county historic district properties commission.

(c) **Criteria for State Aid.** The Commission shall also prepare and adopt criteria for the evaluation of all properties of historic or archaeological importance owned by, under option to, or being considered for acquisition by a county, city, historic properties commission, or other organization or individual for which State aid or assistance is requested. The Commission shall investigate, evaluate, and prepare a written report on all historic or archaeological property for which State aid or appropriations are proposed. This report, which shall be filed as a matter of record in the custody of the Department of Cultural Resources, shall set forth the following opinions or recommendations of the Commission:

- (1) whether the property is historically authentic;
- (2) whether it is of such educational, historical, or cultural significance as to be essential to the development of a balanced State program of historic and archaeological sites and properties;
- (3) the estimated total cost of the project under consideration and the apportionment of said cost among State and nonstate sources;
- (4) whether practical plans have been or can be developed for the funding of the nonstate portion of the costs;
- (5) whether practical plans have been developed for the continued staffing, maintenance and operation of the property without State assistance; and
- (6) such further comments and recommendations that the Commission may make.

(d) **Commission to Furnish Recommendations to Legislative Committees.** The Commission through the Department of Cultural Resources shall furnish as soon as practicable to the chairman of each legislative committee to which is referred any bill seeking as appropriation of State funds for the purpose of acquiring, preserving, restoring, or operating, or otherwise assisting, any property having historic, archaeological, architectural, or other cultural value or significance, at least five copies of a report on the findings and recommendations of the Commission relating to such property.

“§ 121-13. *Acquisition of portrait of Governor during term of office.*—During the term of office of each Governor of this State and at least six months prior to its expiration, the Secretary of the Department of Cultural Resources is directed to select a skilled artist to paint a portrait of such Governor, and have the same suitably framed. Upon the painting and acquisition of such portrait, the same shall be placed in some appropriate building to be designated by the Department of Cultural Resources and which is located in the City of Raleigh.

The cost of the painting and acquisition of said portrait, including the cost of the frame and other necessary expenses incident thereto, shall be paid from the Contingency and Emergency Fund.”

(2) The words “acting through the Advisory Council on Historic Preservation” are hereby deleted from lines 1 and 2 of G.S. 157A-5(2).

(3) The words “State Historical Commission” are hereby deleted and the words “Department of Cultural Resources” are inserted in lieu thereof on line 2

of G.S. 66-58(c)(2); line 4 of G.S. 70-1; line 4 of G.S. 70-2; line 5 of G.S. 70-3; and line 5 of G.S. 70-4.

(c) The following section is hereby repealed: G.S. 100-1.

Sec. 49. *Public Librarian Certification Commission; creation, powers and duties.*—There is hereby created the Public Librarian Certification Commission of the Department of Cultural Resources with the power and duty to adopt rules and regulations to be followed in the certification of public librarians.

The Commission shall adopt such rules and regulations consistent with the provisions of this Chapter. All rules and regulations consistent with the provisions of this Chapter heretofore adopted by the Library Certification Board shall remain in full force and effect unless and until repealed or superseded by action of the Public Librarian Certification Commission. All rules and regulations adopted by the Commission shall be enforced by the Department of Cultural Resources.

Sec. 50. *Public Librarian Certification Commission; members, selection, quorum, compensation.*—The Public Librarian Certification Commission of the Department of Cultural Resources shall consist of five members as follows: (1) the Chairman of the North Carolina Association of Library Trustees, (2) the Chairman of the Public Libraries section of the North Carolina Library Association, (3) an individual named by the Governor upon the nomination of the North Carolina Library Association, (4) the dean of a State or regionally accredited graduate school of librarianship in North Carolina appointed by the Governor and (5) one member at large appointed by the Governor.

The members shall serve four-year terms or while holding the appropriate chairmanships. Any appointment to fill a vacancy created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Commission from office for misfeasance, malfeasance, and nonfeasance according to the provisions of Section 13 of the Executive Organization Act of 1973.

The members of the Commission shall receive per diem, and necessary travel expenses in accordance with the provisions of G.S. 138-5.

A majority of the Commission shall constitute a quorum for the transaction of business.

All clerical and other services required by the Commission shall be supplied by the Secretary of the Department through the regular staff of the Department.

Sec. 51. *Officers of the Public Librarian Certification Commission.*—The Public Librarian Certification Commission shall have a chairman and a vice-chairman. The chairman shall be designated by the Governor from among the members of the Commission to serve as chairman at his pleasure. The vice-chairman shall be elected by and from the members of the Commission and shall serve for a term of two years or until the expiration of his regularly appointed term.

Sec. 52. *Regular and special meetings.*—The Public Librarian Certification Commission shall meet at least once in each quarter and may hold special meetings at any time and place within the State at the call of the Chairman or upon the written request of at least three members.

Sec. 53. *Public Librarian Certification Commission; conforming changes.*—(a) Whenever the words “Library Certification Board” or “Board” when referring to the Library Certification Board are used or appear in any statute or law of this State, the same shall be deleted and the words “Public Librarian Certification Commission” or “Commission” as appropriate, shall be inserted in lieu thereof unless otherwise provided for in the Executive Organization Act of 1973.

(b) In addition to the foregoing, the following amendment to the General Statutes of North Carolina is hereby made: G.S. 125-9 shall be rewritten to read:

“§ 125-9. *Librarian Certification.*—The Secretary of Cultural Resources shall issue librarian certificates to public librarians under such reasonable rules and regulations as the Public Librarian Certification Commission may adopt. A complete record of the transaction of the Department in the issuance of librarian certificates shall be kept at all times in the office of the North Carolina State Library.”

Sec. 54. *Tryon Palace Commission; creation, powers, and duties.*—There is hereby created the Tryon Palace Commission of the Department of Cultural Resources with the power and duty to adopt, amend and rescind rules and regulations concerning the restoration and maintenance of the Tryon Palace complex, and such other powers and duties as provided in Article 2 of Chapter 121 of the General Statutes of North Carolina.

Sec. 55. *Tryon Palace Commission; members, selection, quorum, compensation.*—The Tryon Palace Commission of the Department of Cultural Resources shall consist of twenty-five members appointed by the Governor and in addition to the members who are appointed by the Governor, the Attorney General, the Secretary of Natural and Economic Resources or his designee, the Mayor of the City of New Bern, and the Chairman of the Board of Commissioners of Craven County shall serve as ex officio members of said Commission. The provisions of the Executive Organization Act of 1973 pertaining to the residence of members of commissions shall not apply to the Tryon Palace Commission.

A majority of the members of the Commission shall constitute a quorum for the transaction of business.

The members of the Commission shall serve without pay and without expense allowance.

Sec. 56. *Tryon Palace; conforming changes.*—(a) The following section of the General Statutes of North Carolina is hereby repealed: G.S. 121-19.

Sec. 57. *USS North Carolina Battleship Commission; creation, powers, and duties.*—There is hereby created the USS North Carolina Battleship Commission of the Department of Cultural Resources with the power and duty to adopt, amend, and rescind rules and regulations under and not inconsistent with the laws of this State necessary in carrying out the provisions and purposes of this Article.

(a) The USS North Carolina Battleship Commission is authorized and empowered to adopt such rules and regulations not inconsistent with the management responsibilities of the Secretary of the Department provided by Chapter 143A of the General Statutes and Laws of this State and this act that may be necessary and desirable for the operation and maintenance of the USS

North Carolina as a permanent memorial and exhibit as provided in Article 39 of Chapter 143 of the General Statutes of North Carolina.

(b) The USS North Carolina Battleship Commission shall have the power and duty to establish standards and adopt rules and regulations:

(1) establishing and providing for a proper charge for admission to the ship; and

(2) for the maintenance and operation of the ship as a permanent memorial and exhibit.

(c) The Commission shall adopt rules and regulations consistent with the provisions of this Chapter and Article 39 of Chapter 143 of the General Statutes of North Carolina.

Sec. 58. USS North Carolina Battleship Commission; members, selection, quorum, compensation.—The USS North Carolina Battleship Commission of the Department of Cultural Resources shall consist of not more than fifteen members including the Secretary of Natural and Economic Resources who shall serve as an ex officio member. The initial members of the Commission shall be the appointed members of the current Battleship Commission who shall serve for a period equal to the remainder of their current terms on the Battleship Commission. At the end of the respective terms of office of the initial members of the Commission, their successors shall be appointed for terms of two years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term. The provisions of the Executive Organization Act of 1973 pertaining to the residence of members of commissions shall not apply to the USS North Carolina Battleship Commission.

The Governor shall have the power to remove any member of the Commission from office for misfeasance, malfeasance, or nonfeasance in accordance with the provisions of Section 13 of the Executive Organization Act of 1973.

The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Commission shall constitute a quorum for the transaction of business.

Sec. 59. USS North Carolina Battleship Commission; conforming changes.—(a) The following sections of the General Statutes of North Carolina are hereby repealed: G.S. 143-363, G.S. 143-364, and G.S. 143-365.

Sec. 60. Sir Walter Raleigh Commission; creation, powers, and duties.—There is hereby created the Sir Walter Raleigh Commission of the Department of Cultural Resources.

(a) The Sir Walter Raleigh Commission shall have the following powers and duties:

(1) to solicit, collect, and turn over to the Secretary of Cultural Resources voluntary donations from the people of North Carolina, including the school children of the State, for the purpose of acquiring, executing and erecting in the City of Raleigh a memorial to Sir Walter Raleigh;

(2) to determine the form and characteristics of such memorial and to advise and assist the Secretary of Cultural Resources in the selection of an appropriate person or persons to execute said memorial;

(3) to advise the Secretary on the expenditure of such funds as may not be required for the acquisition, execution, and erection of said memorial to the end that such funds may be used in a manner appropriate to the memorializing of Sir Walter Raleigh, including publications and observances; and

(4) to advise the Superintendent of Public Instruction on the designation of a Sir Walter Raleigh Day in the public schools of the State and on the appropriate observances thereof.

(b) The Commission is authorized and empowered to adopt such rules and regulations, not inconsistent with the laws of this State, as may be required by the federal government for grants-in-aid for historical memorial purposes which may be made available for the State by the federal government. This section is to be liberally construed in order that the State and its citizens may benefit from such grants-in-aid.

(c) The Commission shall adopt rules and regulations consistent with the provisions of this Chapter. All rules and regulations not inconsistent with the provisions of this Chapter heretofore adopted by the Sir Walter Raleigh Memorial Commission shall remain in full force and effect unless and until repealed or superseded by action of the Sir Walter Raleigh Commission. All rules and regulations adopted by the Commission shall be enforced by the Department of Cultural Resources.

Sec. 61. *Sir Walter Raleigh Commission; members, selection, quorum, compensation.*—The Sir Walter Raleigh Commission of the Department of Cultural Resources shall consist of twenty-one members appointed by the Governor.

Of the initial members of the Commission seven shall be appointed for a six-year term, seven appointed for a four-year term and seven appointed for a two-year term. At the end of the respective terms of office of the initial members of the Commission, their successors shall be appointed for terms of six years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term. The provisions of the Executive Organization Act of 1973 pertaining to the residence of members of commissions shall not apply to the Sir Walter Raleigh Commission.

The Governor shall have the power to remove any member of the Commission from office for misfeasance, malfeasance, and nonfeasance according to the provisions of Section 13 of the Executive Organization Act of 1973.

The members of the Commission shall receive neither pay, per diem, nor necessary travel and subsistence expenses.

A majority of the Commission shall constitute a quorum for the transaction of business.

Sec. 62. *Officers of the Sir Walter Raleigh Commission.*—The Sir Walter Raleigh Commission shall have a chairman and a vice-chairman. The chairman shall be designated by the Governor from among the members of the Commission to serve as chairman at the pleasure of the Governor. The vice-chairman shall be elected by and from the members of the Commission and shall serve for a term of two years or until the expiration of his regularly appointed term.

Sec. 63. Regular and special meetings.—The Sir Walter Raleigh Commission shall meet at least once in each quarter and may hold special meetings at any time and place within the State at the call of the Chairman or upon the written request of at least eleven members.

Sec. 64. Sir Walter Raleigh Commission; conforming changes.—The following sections of the General Statutes of North Carolina are hereby repealed: Chapter 1267 of the 1953 Session Laws; and Resolution 26 of the 1947 Session Laws.

Sec. 65. Executive Mansion Fine Arts Committee; creation, powers, and duties.—There is hereby created the Executive Mansion Fine Arts Committee. The Executive Mansion Fine Arts Committee shall have the following functions and duties:

(a) to advise the Secretary of Cultural Resources on the preservation and maintenance of the Executive Mansion located at 200 North Blount Street, Raleigh, North Carolina;

(b) to encourage gifts and objects of art, furniture and articles of historical value for furnishing the Executive Mansion, and advise the Secretary of Cultural Resources on major changes in the furnishings of the Mansion;

(c) to make recommendations to the Secretary of Cultural Resources concerning major renovations necessary to preserve and maintain the structure;

(d) to aid the Secretary of Cultural Resources in keeping a complete list of all gifts and articles received together with their history and value;

(e) no gifts or articles shall be accepted for the Executive Mansion without the approval of the Art Commission or the Historical Commission; and

(f) the Committee shall advise the Secretary of Cultural Resources upon any matter the Secretary may refer to it.

Sec. 66. The Executive Mansion Fine Arts Committee; members, selection, quorum, compensation.—The Executive Mansion Fine Arts Committee shall consist of sixteen members appointed by the Governor. The initial members of the Committee shall be the appointed members of the present Executive Mansion Fine Arts Commission who shall serve for a period equal to the remainder of their current terms on the Executive Mansion Fine Arts Commission, four of whose appointments expire June 30, 1973, four of whose appointments expire June 30, 1974, four of whose appointments expire June 30, 1975, and four of whose appointments expire June 30, 1976. At the end of the respective terms of office of the initial members, the appointments of their successors shall be for terms of four years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Committee created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Committee from office in accordance with the provisions of Section 16 of the Executive Organization Act of 1973.

The Governor shall designate a member of the Committee to serve as chairman at his pleasure.

Members of the Committee shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Committee shall constitute a quorum for the transaction of business.

All clerical and other services required by the Committee shall be supplied by the Secretary of Cultural Resources.

Sec. 67. *Executive Mansion Fine Arts Committee; conforming changes.*—(a) Whenever the words “Executive Mansion Fine Arts Commission” or the word “Commission,” when referring to the Executive Mansion Fine Arts Commission, are used or appear in any statute or law of this State, the same shall be deleted and the words “Department of Cultural Resources” or “Department,” as appropriate shall be inserted in lieu thereof, unless otherwise provided for in the Executive Organization Act of 1973.

(b) In addition to the foregoing, the following amendments to the General Statutes of North Carolina shall be made:

(1) The words “and to request the assistance of the State Department of Archives and History for this purpose” shall be deleted from lines 2 and 3 of G.S. 143-410(4).

(2) The word “Commission” is hereby deleted and the words “Executive Mansion Fine Arts Committee” are inserted in lieu thereof on line 1 of G.S. 143-410(5).

(3) The last three sentences, beginning line 11 and ending line 18, of G.S. 143-411 shall be deleted.

(c) The following sections of the General Statutes are hereby repealed: G.S. 143-409; G.S. 143-412; G.S. 143-413; G.S. 143-414.

Sec. 68. *American Revolution Bicentennial Committee; creation, powers, and duties.*—There is hereby created the North Carolina American Revolution Bicentennial Committee. The North Carolina American Revolution Bicentennial Committee shall have the following functions and duties:

(a) to advise the Secretary of Cultural Resources concerning plans and programs for the observance of the bicentennial of the American Revolution and to advise the Secretary on the conduct of such programs or series of observations; and

(b) to advise the Secretary of the Department upon any matter the Secretary may refer to it.

Sec. 69. *American Revolution Bicentennial Committee; members, selection, quorum, compensation.*—The American Revolution Bicentennial Committee of the Department of Cultural Resources shall consist of twenty-five members, twenty-two of whom shall be appointed by the Governor and the following three ex officio members:

the Secretary of Natural and Economic Resources or designee, the Superintendent of Public Instruction or designee, and the State Regent of the DAR. Of the twenty-two members appointed by the Governor, nine shall be members of North Carolina college and university history faculties. The initial members of the American Revolution Bicentennial Committee shall include the members of the American Revolution Bicentennial Commission for the balance of their existing terms, two of whose appointments expire March 21, 1973, two of whose appointments expire March 21, 1974, two of whose appointments expire March 21, 1975, two of whose appointments expire March 21, 1976, and two of whose appointments expire March 21, 1977. To maintain the staggered terms the Governor shall appoint three of the additional members for five-year terms, three for four-year terms, two for three-year terms, two for two-year terms, and two for one-year terms. At the end of the respective terms of office of the initial members of the Committee, their successors shall be appointed for

terms of five years and until their successors are appointed and qualified. Any appointment to fill a vacancy on the Committee created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Committee from office in accordance with the provisions of Section 16 of the Executive Organization Act of 1973.

The Governor shall designate a member of the Committee to serve as chairman at his pleasure.

The members of the Committee shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Committee shall constitute a quorum for the transaction of business.

The Secretary of Cultural Resources is hereby authorized to request contingency and emergency funds for the administration of the American Revolution Bicentennial Committee, for the period between the date of ratification of the Executive Organization Act of 1973 and ratification of the next general appropriations bill for the Department.

All clerical and other services required by the Committee shall be supplied by the Secretary of Cultural Resources.

Sec. 70. *North Carolina American Revolution Bicentennial Committee; conforming changes.*—Article 45 of Chapter 143 of the General Statutes of North Carolina, Sections 143-396 through 143-399, is hereby repealed.

Sec. 71. *North Carolina Awards Committee; creation, powers, and duties.*—There is hereby created the North Carolina Awards Committee with the duty to advise the Secretary of Cultural Resources on the formulation and administration of the program governing North Carolina awards and on the selection of a committee in each award area to choose the recipients.

(a) The Committee shall advise the Secretary of the Department upon any matter the Secretary may refer to it.

Sec. 72. *North Carolina Awards Committee; members, selection, quorum, compensation.*—The North Carolina Awards Committee shall consist of five members appointed by the Governor to serve at the Governor's pleasure.

The Governor shall designate a member of the Committee as chairman to serve in such capacity at the pleasure of the Governor.

Members of the Committee shall serve without compensation or travel or per diem.

A majority of the Committee shall constitute a quorum for the transaction of business.

The Secretary of Cultural Resources is hereby authorized to request contingency and emergency funds for the administration of the North Carolina Awards Committee, for the period between the date of ratification of this act and ratification of the next general appropriations bill for the Department.

All clerical and other services required by the Committee shall be supplied by the Secretary of Cultural Resources.

Sec. 73. *North Carolina Awards Committee; conforming changes.*—G.S. 140A-4 is hereby repealed.

(1) The words "North Carolina Awards Commission" are hereby deleted and the words "North Carolina Awards Committee" are inserted in lieu thereof on line 2 of G.S. 140A-5.

(2) G.S. 140A-4 is hereby repealed.

Sec. 74. *America's Four Hundredth Anniversary Committee; creation, powers, and duties.*—There is hereby created the America's Four Hundredth Anniversary Committee of the Department of Cultural Resources. The Committee shall have the following functions and duties:

(1) to advise the Secretary of the Department on the planning, conducting, and directing appropriate observances of, and of providing necessary physical facilities and other requirements for, the commemoration of the landing of Sir Walter Raleigh's colony on Roanoke Island; and

(2) to advise the Secretary of the Department upon any matter the Secretary might refer to it.

Sec. 75. *America's Four Hundredth Anniversary Committee; members, selection, quorum, compensation.*—The America's Four Hundredth Anniversary Committee shall consist of fourteen members as follows: ten members at large appointed by the Governor and four ex officio members as follows: the Mayor of the Town of Manteo, the Secretary of Natural and Economic Resources, the Chairman of the Roanoke Island Historical Association, and the Chairman of the Dare County Board of Commissioners, or their designees. Of the initial members of the America's Four Hundredth Anniversary Committee appointed by the Governor five shall be appointed for terms expiring June 30, 1975, and five for terms expiring June 30, 1977. At the end of their respective terms of office, the appointments shall be for a term of four years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Committee created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Committee from office in accordance with the provisions of Section 16 of the Executive Organization Act of 1973.

The Governor shall designate a member of the Committee to serve as chairman at his pleasure.

Members of the Committee shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Committee shall constitute a quorum for the transaction of business.

Sec. 76. *America's Four Hundredth Anniversary Committee; conforming changes.*—Resolution 43 of the 1955 General Assembly is hereby repealed.

Sec. 77. *North Carolina Arts Council; creation, powers, and duties.*—There is hereby created the North Carolina Arts Council with the following duties and functions:

(1) to advise the Secretary of Cultural Resources on the study, collection, maintenance and dissemination of factual data and pertinent information relative to the arts;

(2) to advise the Secretary concerning assistance to local organizations and the community at large in the area of the arts;

(3) to advise the Secretary on the exchange of information, promotion of programs and stimulation of joint endeavor between public and nonpublic organizations;

(4) to identify research needs in the arts area and to encourage such research;

(5) to advise the Secretary in regard to bringing the highest obtainable quality in the arts to the State and promoting the maximum opportunity for the people to experience and enjoy those arts; and

(6) to advise the Secretary of the Department upon any matter the Secretary may refer to it;

Sec. 78. *The North Carolina Arts Council; members, selection, quorum, compensation.*—The North Carolina Arts Council shall consist of twenty-four (24) members appointed by the Governor. The initial members of the Council shall be the appointed members of the present Arts Council who shall serve for a period equal to the remainder of their current terms on the Arts Council, eight of whose terms expire June 30, 1973, eight of whose terms expire June 30, 1974, and eight of whose terms expire June 30, 1975. At the end of the respective terms of office of the initial members, the appointments of their successors shall be for terms of three years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Council created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Council from office in accordance with the provisions of Section 16 of the Executive Organization Act of 1973.

The Governor shall designate a member of the Council as chairman to serve at his pleasure.

Members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Council shall constitute a quorum for the transaction of business.

All clerical and other services required by the Council shall be supplied by the Secretary of Cultural Resources.

Sec. 79. *North Carolina Arts Council; conforming changes.*—(a) Whenever the words "North Carolina Arts Council" or "Council," when referring to the North Carolina Arts Council, are used or appear in any statute or law of this State, the same shall be deleted and the words, "Department of Cultural Resources" or "Department," as appropriate shall be inserted in lieu thereof, unless otherwise provided for in the Executive Organization Act of 1973.

(b) In addition to the foregoing, the following amendments to the General Statutes of North Carolina are hereby made:

(1) The first and third sentences of paragraph 1 of G.S. 143-403 shall be deleted.

(2) The second paragraph of G.S. 143-403 shall be deleted.

(3) The words "through its executive director, staff and members" shall be deleted from lines 1 and 2 of G.S. 143-406.

(4) G.S. 143-407 shall be rewritten to read as follows: "In addition to the appropriations out of the General Fund of the State, the department may accept gifts, bequests, devises, matching funds, or other considerations for use in promoting the arts."

(c) The following sections are hereby repealed: G.S. 143-404, G.S. 143-405, G.S. 143-408.

Sec. 80. *North Carolina Art Society, Incorporated.*—The North Carolina Art Society, Incorporated, shall continue to be under the patronage of the State

as provided in Article 3 of Chapter 140 of the General Statutes of North Carolina. The governing body of the North Carolina Art Society, Incorporated, shall be a Board of Directors consisting of sixteen members, of whom the Governor of this State, the Superintendent of Public Instruction, the Treasurer of the State of North Carolina, and the Chairman of the Art Committee of the North Carolina Federation of the Woman's Club shall be ex officio members, and four others shall be named by the Governor of the State. The remaining eight Directors shall be chosen by members of the North Carolina Art Society, Incorporated, in such manner and for such terms as that body shall determine. The four Directors named by the Governor shall serve for terms of four years each.

Sec. 81. *North Carolina Art Society, Incorporated; conforming changes.*—The following section of the General Statutes of North Carolina shall be repealed: G.S. 140-11.

Sec. 82. *The State Library Committee; creation, powers, and duties.*—There is hereby created the State Library Committee of the Department of Cultural Resources. The State Library Committee shall have the following functions and duties:

(1) to advise the Secretary of the Department on matters relating to the operation and services of the State Library;

(2) to suggest programs to the Secretary of the Department to aid in the development of libraries statewide; and

(3) to advise the Secretary of Cultural Resources upon any matter the Secretary might refer to it.

Sec. 83. *The State Library Committee; members, selection, quorum, compensation.*—The State Library Committee shall consist of seven members and shall be composed as follows: Six members appointed by the Governor, and the duly elected and installed President of the North Carolina Library Association.

The initial members of the Committee shall be the current President of the North Carolina Library Association and the appointed members of the Library Board of Trustees who shall serve for a period equal to the remainder of their current terms on the Library Board of Trustees, two of whose appointments expire July 1, 1973; two of whose appointments expire July 1, 1975; and two of whose appointments expire July 1, 1977. At the end of the respective terms of office of the initial members, the appointments of all appointed members shall be for terms of six years and until their successors are appointed and qualify except in the case of the President of the North Carolina Library Association who shall be replaced biennially by his successor in office. Any appointment to fill a vacancy on the Committee created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Committee from office in accordance with the provisions of Section 16 of the Executive Organization Act of 1973.

The Governor shall designate a member of the Committee to serve as chairman at his pleasure.

Members of the Committee shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Committee shall constitute a quorum for the transaction of business.

All clerical and other services required by the Committee shall be supplied by the Secretary of Cultural Resources.

Sec. 84. State Library Committee; conforming changes.—(a) (1) Whenever the words “North Carolina State Library,” “State Library,” or “Library,” when referring to the North Carolina State Library are used or appear in any statute or law of this State, the same shall be deleted and the words “Department of Cultural Resources” shall be inserted in lieu thereof, unless otherwise provided for in the Executive Organization Act of 1973. With the exception that in the following references, the words “State Library” or “Library,” when referring to the State Library, shall be retained: G.S. 125-2(4), lines 10, 15, and 16; G.S. 125-2(5), lines 3, 4, 8, and 11; G.S. 125-6, line 5; and G.S. 125-11, line 2.

(2) Whenever the words “Board of Trustees of the North Carolina State Library,” “Board of Trustees,” “Board,” “Library Board of Trustees,” when referring to the Board of Trustees of the North Carolina State Library are used or appear in any statute or law of this State, the same shall be deleted and the words “Department of Cultural Resources” or “Department,” as appropriate shall be inserted in lieu thereof, unless otherwise provided for in the Executive Organization Act of 1973.

(b) In addition to the foregoing, the following amendments to the General Statutes of North Carolina are hereby made:

(1) The second sentence of G.S. 125-2(4) shall be rewritten to read as follows: “The scope of the Library’s collections shall be determined by the Secretary of Cultural Resources upon consideration of the recommendation of the State Library Committee; and in making these decisions, the Secretary shall take into account the book collections of public libraries and college and university libraries throughout the State and the availability of such collections to the general public.”

(2) The words “and approved by the Board of Trustees” shall be deleted from line 12 of G.S. 125-2(4).

(3) The words “, with the approval of the board,” shall be deleted from line 13 of G.S. 125-2(4).

(4) The word “Board” shall be deleted from line 2 of G.S. 125-7(c).

(5) The first sentence of G.S. 125-10 shall be deleted.

(c) The following sections of the General Statutes of North Carolina are hereby repealed: G.S. 125-3, G.S. 125-4, G.S. 125-7(f), G.S. 140-2(a), G.S. 140-2(b), and G.S. 140-2(c).

Sec. 85. Roanoke Island Historical Association; creation, powers, and duties.—There is hereby re-created the Roanoke Island Historical Association with the powers and duties delineated in Article 19 of Chapter 143 of the General Statutes of North Carolina.

Sec. 86. The Roanoke Island Historical Association; status.—The Roanoke Island Historical Association is hereby declared not to be a State agency within the meaning of the Executive Organization Act of 1973 and shall be exempt from all provisions of the Executive Organization Act of 1973 except Sections 85 through 87.

Sec. 87. *Roanoke Island Historical Association; conforming changes.*—The following amendments to the General Statutes of North Carolina are hereby made:

(1) G.S. 143-201 is amended by adding at the end thereto a sentence to read as follows: "The duly elected officers of the Association shall serve as an advisory committee to the Secretary of Cultural Resources concerning matters relating to 'The Lost Colony' historical drama."

(2) The word "Association" shall be deleted and the words "Secretary of Cultural Resources" shall be inserted in lieu thereof on line 7 of G.S. 143-204.

Sec. 88. *North Carolina Symphony Society, Inc.*—The North Carolina Symphony Society, Incorporated, shall continue to be under the patronage of the State as provided in Article 2 of Chapter 140 of the General Statutes of North Carolina. The governing body of the North Carolina Symphony Society, Incorporated, shall be a Board of Trustees consisting of not less than sixteen members of which the Governor of the State and the Superintendent of Public Instruction shall be ex officio members and four other members shall be named by the Governor. The remaining trustees shall be chosen by members of the North Carolina Symphony Society, Incorporated, in such manner and for such terms as that body shall determine. The initial members named by the Governor shall be appointed from members of the existing Board of Trustees of the North Carolina State Symphony Society, Incorporated, for the balance of their existing terms. Subsequent appointments shall be made for terms of four years each.

Sec. 89. *North Carolina Symphony Society; conforming changes.*—G.S. 140-6 is hereby repealed.

Sec. 90. *Edenton Historical Commission; creation, powers, and duties.*—There is hereby re-created the Edenton Historical Commission. The Edenton Historical Commission shall have the following powers:

(1) to acquire and dispose of title to or interests in historic properties in the Town of Edenton and County of Chowan and to repair, restore, or otherwise improve such properties, and to maintain them;

(2) to cooperate with, assist, and advise the Secretary of Cultural Resources upon any matters pertaining to the administration of any State-owned historic property or properties in Edenton which the Secretary of the Department may refer to it; and

(3) to carry out other programs reasonably related to these purposes.

Sec. 91. *The Edenton Historical Commission; status.*—The Edenton Historical Commission is hereby declared not to be a State agency within the meaning of the Executive Organization Act of 1973 and shall be exempt from all provisions of the Executive Organization Act of 1973 except Sections 90 through 94.

Sec. 92. *Edenton Historical Commission; reports.*—The Edenton Historical Commission shall submit an annual report of its activities, holdings, and finances, including an audit of its accounts by a certified public accountant, to the Secretary of Cultural Resources. In the event such annual report is not received by the Secretary, or if such report does not indicate the need for the continuation of the Commission, the Secretary of Cultural Resources is authorized to recommend to the next General Assembly the abolition of the Commission.

Sec. 93. *Edenton Historical Commission; members, selection, quorum, compensation.*—The Edenton Historical Commission shall consist of not fewer than twenty-five members appointed by the Governor plus, ex officio, the Mayor of the Town of Edenton, the Chairman of the Board of Commissioners of Chowan County, and the Secretary of Cultural Resources or designee.

The initial members of the Commission shall be the members of the present Edenton Historical Commission and shall serve at the pleasure of the Governor. Members of the Commission shall elect their own officers and members of the Commission shall serve without pay and without expense allowance from State funds. The Commission shall determine its requirements for a quorum.

Sec. 94. *Edenton Historical Commission; conforming changes.*—The following sections are hereby repealed: Chapter 1009 of the 1961 Session Laws.

Sec. 95. *Historic Bath Commission; creation, powers, and duties.*—There is hereby created the Historic Bath Commission. The Historic Bath Commission shall have the following powers:

(1) to acquire and dispose of title to or interests in historic properties in and near the town of Bath in Beaufort County, and to repair, restore, or otherwise improve such properties, and to maintain them;

(2) to offer such historic properties to the State of North Carolina, subject to the acceptance of such properties by the State;

(3) to cooperate with, assist, and advise the Secretary of Cultural Resources upon any matter pertaining to the administration of Bath State Historic Site, which the Secretary of the Department may refer to it; and

(4) to carry out other programs reasonably related to these purposes.

Sec. 96. *Historic Bath Commission; status.*—The Historic Bath Commission is hereby declared not to be a State agency within the meaning of the Executive Organization Act of 1973 and shall be exempt from all provisions of the Executive Organization Act of 1973 except Sections 95 through 99.

Sec. 97. *Historic Bath Commission; reports.*—The Historic Bath Commission shall submit an annual report of its activities, holdings, and finances, including an audit of its accounts by a certified public accountant, to the Secretary of Cultural Resources. In the event such annual report is not received by the Secretary, or if such report does not indicate the need for the continuation of the Commission, the Secretary of Cultural Resources is authorized to recommend the abolition of the Commission to the next General Assembly.

Sec. 98. *Historic Bath Commission; members, selection, quorum, compensation.*—The Historic Bath Commission shall consist of twenty-five members appointed by the Governor plus, ex officio, the Mayor of the Town of Bath, the Chairman of the Board of Commissioners of Beaufort County, and the Secretary of Cultural Resources or designee. The initial members of the Commission shall be the members of the present Historic Bath Commission who shall serve for a period equal to the remainder of their current terms on the Historic Bath Commission. At the end of the respective terms of office of the initial members of the Commission, the appointments of their successors, with the exception of the ex officio members, shall be for terms of five years and until their successors are appointed and qualify. Any appointments to fill a vacancy on the Commission created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term. The Commission shall

elect its own officers. Members of the Commission shall serve without pay and without expense allowance from State funds. The Commission shall determine its requirements for a quorum.

Sec. 99. *Historic Bath Commission; conforming changes.*—The following sections are hereby repealed: Chapter 353 of the Session Laws of 1965 and Chapter 1005 of the Session Laws of 1959.

Sec. 100. *Historic Hillsborough Commission; creation, powers, and duties.*—There is hereby re-created the Historic Hillsborough Commission. The Historic Hillsborough Commission shall have the following powers:

(1) in cooperation with the Hillsborough Historical Society, the elected officials of Hillsborough and Orange County, and appropriate public agencies, to use every legal aid and method to preserve and restore the Town of Hillsborough, and its immediately adjacent area, as a living, functioning, educational, and historical exhibit of North Carolina's early life and times;

(2) to acquire and to dispose of property, real and personal; to repair, restore, or otherwise improve such properties; to have prepared a history of the town and area; and to write, compile, publish, or sponsor such historical works as may pertain to the town and area; and

(3) to carry on other programs reasonably related to these purposes.

Sec. 101. *Historic Hillsborough Commission; status.*—The Historic Hillsborough Commission is hereby declared not to be a State agency within the meaning of the Executive Organization Act of 1973 and shall be exempt from all provisions of the Executive Organization Act of 1973 except Sections 100 through 104.

Sec. 102. *Historic Hillsborough Commission; reports.*—The Historic Hillsborough Commission shall submit an annual report of its activities, holdings, and finances, including an audit of its accounts by a certified public accountant, to the Secretary of Cultural Resources. In the event such annual report is not received by the Secretary, or if such report does not indicate the need for the continuation of the Commission, the Secretary of Cultural Resources is authorized to recommend to the next General Assembly the abolition of the Commission.

Sec. 103. *Historic Hillsborough Commission; members, selection, quorum, compensation.*—The Historic Hillsborough Commission shall consist of not fewer than twenty-five members appointed by the Governor plus, ex officio, the Mayor of the Town of Hillsborough, the Chairman of the Board of Commissioners of Orange County, the Orange County Register of Deeds, the Orange County Clerk of Superior Court, and the Secretary of Cultural Resources or designee. The initial appointed members of the Commission shall be the members of the present Historic Hillsborough Commission who shall serve for a period equal to the remainder of their current terms on the Historic Hillsborough Commission. At the end of the respective terms of office of the present members, the appointments of members, excepting the ex officio members, shall be for terms of six years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term. The Commission shall elect its own officers. Members of the Commission shall serve without pay and without expense allowance from State funds. The Commission shall determine its requirements for a quorum.

Sec. 104. *Historic Hillsborough Commission; conforming changes.*—The following sections are hereby repealed: Chapter 196 of the 1963 Session Laws.

Sec. 105. *Historic Murfreesboro Commission; creation, powers, and duties.*—There is hereby re-created the Historic Murfreesboro Commission. The Historic Murfreesboro Commission shall have the following powers:

(1) to acquire and dispose of title to or interests in historic properties in and near the Town of Murfreesboro, and to repair, restore, or otherwise improve and maintain such properties;

(2) to conduct research and planning to carry out a program for the preservation of historic sites, buildings, or objects in and near the Town of Murfreesboro;

(3) to carry out other programs reasonably related to these purposes.

Sec. 106. *Historic Murfreesboro Commission; status.*—The Historic Murfreesboro Commission is hereby declared not to be a State agency within the meaning of the Executive Organization Act of 1973 and shall be exempt from all provisions of the Executive Organization Act of 1973 except Sections 105 through 109.

Sec. 107. *Historic Murfreesboro Commission; reports.*—The Historic Murfreesboro Commission shall submit an annual report of its activities, holdings, and finances, including an audit of its accounts by a certified public accountant, to the Secretary of Cultural Resources. In the event such annual report is not received by the Secretary, or if such report does not indicate the need for the continuation of the Commission, the Secretary of Cultural Resources is authorized to recommend to the next General Assembly the abolition of the Commission.

Sec. 108. *Historic Murfreesboro Commission; members, selection, quorum, compensation.*—The Historic Murfreesboro Commission shall consist of thirty members appointed by the Governor plus, ex officio, the Mayor of the Town of Murfreesboro, the Chairman of the Board of Commissioners of the County of Hertford, the President of Chowan College, and the Secretary of Cultural Resources or designee. The initial appointed members of the Commission shall be the members of the present Historic Murfreesboro Commission who shall serve for a period equal to the remainder of their current terms on the Historic Murfreesboro Commission. At the end of the respective terms of office of the initial members of the Commission, the appointments of their successors, with the exception of ex officio members, shall be for terms of five years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term. The Commission shall elect its own officers. Members of the Commission shall serve without pay and without expense allowance from State funds. The Commission shall determine its requirements for a quorum.

Sec. 109. *Historic Murfreesboro Commission; conforming changes.*—The following sections are hereby repealed: Chapter 18 of the 1967 Session Laws.

Sec. 110. *John Motley Morehead Memorial Commission; creation; powers, and duties.*—There is hereby re-created the John Motley Morehead Memorial Commission. The John Motley Morehead Memorial Commission shall have the following powers:

(1) to acquire title to or interests in property, both real and personal, and to solicit, collect, and expend funds for the acquisition, restoration, maintenance, and operation of a memorial to John Motley Morehead in the City of Greensboro; and to carry on other activities, including research and publications, reasonably related to this purpose;

(2) to convey, lease, mortgage, and otherwise dispose of real and personal property and interests therein, as well as to accept deeds, bills of sale, and other instruments conveying and investing title in it; and

(3) to offer such memorial to the State of North Carolina, which memorial, if accepted by the Department of Cultural Resources and Council of State, may be administered as a State historic site subject to existing covenants and agreements.

Sec. 111. *John Motley Morehead Memorial Commission; status.*—The John Motley Morehead Memorial Commission is hereby declared not to be a State agency within the meaning of the Executive Organization Act of 1973 and shall be exempt from all provisions of the Executive Organization Act of 1973 except Sections 110 through 115.

Sec. 112. *John Motley Morehead Memorial Commission; authorization for counties to assist.* The special approval of the General Assembly is hereby given to all appropriations of surplus or non-ad valorem tax funds that should be made and paid over to said Commission by all counties and municipalities and the same are declared to be for a public purpose and the special approval of the General Assembly is given for such appropriations. Upon the request of the Commission hereby created, the governing body of Guilford County or of the City of Greensboro may, in its discretion, make appropriations from non-ad valorem tax revenues to the Commission.

Sec. 113. *John Motley Morehead Memorial Commission; reports.*—The John Motley Morehead Commission shall submit to the Secretary of Cultural Resources an annual report of its activities, holdings, and finances, including an audit of its accounts by a certified public accountant. In the event such annual report is not received by the Secretary, or if the report indicates that there is no further need for the Commission, the Secretary of Cultural Resources is authorized to recommend to the next General Assembly the abolition of the Commission.

Sec. 114. *John Motley Morehead Memorial Commission; creation, members, selection; quorum, compensation.*—The John Motley Morehead Memorial Commission shall consist of nineteen members as follows: Nine members appointed by the Governor; three members appointed by the Board of Commissioners of Guilford County; three members appointed by the City Council of Greensboro; and four ex officio members, as follows: The Secretary of Natural and Economic Resources or designee, the Superintendent of Public Instruction or designee, the State Treasurer or designee and the Secretary of Cultural Resources or designee. The initial members of the Commission shall be the members of the present John Motley Morehead Memorial Commission who shall serve for a period equal to the remainder of their current terms on the John Motley Morehead Memorial Commission. At the end of the respective terms of office of the initial members, the appointments of their successors, with the exception of the ex officio members, shall be for terms of six years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death, or disability of a

member shall be for the balance of the unexpired term. The Commission shall elect its own officers. Members of the Commission shall serve without pay and without expense allowance from State funds. The Commission shall determine its requirements for a quorum.

Sec. 115. *John Motley Morehead Memorial Commission; conforming changes.*—The following sections are hereby repealed: Chapter 1308 of the 1959 Session Laws.

Sec. 116. *Department of Cultural Resources; conforming changes.*—(a) The following amendments to the General Statutes of North Carolina are hereby made:

(1) Whenever the words “Tobacco Museum Board” or “Board” when referring to the Tobacco Museum Board, are used or appear in any statute or law of this State, the same shall be deleted and the words “Department of Cultural Resources” or “Department” as appropriate shall be inserted in lieu thereof.

(b) The following commissions are hereby abolished and statutory references to each are hereby repealed.

(1) The Daniel Boone Memorial Commission as created by Chapter 496 of the 1909 Session Laws.

(2) The Bennett Place Memorial Commission, as originally created by Chapter 77, 1923 Session Laws, and as amended by Chapter 648 of the 1955 Session Laws.

(3) The Durham-Orange Historical Commission, as created by Chapter 45 of the 1927 Session Laws.

(4) The Transylvania County Historical Commission, as created by Chapter 1110 of the 1949 Session Laws.

(5) The Lenoir County Historical and Patriotic Commission as created by Chapter 757 of the 1949 Session Laws.

(6) The Charles B. Aycock Memorial Commission, as created by Chapter 1021 of the 1949 Session Laws.

(7) The Pitt County Historical Commission as created by Chapter 824 of the 1957 Session Laws.

(8) The Stonewall Jackson Memorial Fund, as created by Chapter 1371 of the 1957 Session Laws.

(9) The Guilford County Bicentennial Commission, as created by Chapter 548 of the 1967 Session Laws.

(10) The Raleigh Historic Sites Commission, as created by Chapter 1058 of the 1967 Session Laws.

(b) The following sections of the General Statutes of North Carolina are hereby repealed: Article 19A of Chapter 143, being G.S. 143-204.1, G.S. 143-204.2, G.S. 143-204.3, and G.S. 143-204.4; Article 19B of Chapter 143, being G.S. 143-204.5, G.S. 143-204.6, G.S. 143-204.7; Article 39A of Chapter 143, being G.S. 143-369.1, G.S. 143-369.2, G.S. 143-369.3, G.S. 143-429, G.S. 143-430; and Article 17 of Chapter 143A of the General Statutes of the State of North Carolina being G.S. 143A-191 through 143A-230.

DEPARTMENT OF HUMAN RESOURCES

Sec. 117. *Department of Human Resources; creation.*—There is hereby re-created and reconstituted a department to be known as the “Department of Human Resources,” with the organization, duties, functions, and powers defined in the Executive Organization Act of 1973.

Sec. 118. Duties of the Department.—It shall be the duty of the Department to provide the necessary management, development of policy, and establishment and enforcement of standards for the provision of services in the fields of general and mental health and rehabilitation with the basic goal being to assist all citizens—as individuals, families, and communities—to achieve and maintain an adequate level of health, social and economic well-being, and dignity.

Sec. 119. Functions of the Department.—(a) The functions of the Department of Human Resources shall comprise, except as otherwise expressly provided by the Executive Organization Act of 1973 or by the Constitution of North Carolina, all executive functions of the State in relation to general and mental health and health rehabilitation and further including those prescribed powers, duties, and functions enumerated in Article 13 of Chapter 143A of the General Statutes of this State.

(b) All such functions, powers, duties, and obligations heretofore vested in any agency enumerated in Article 13 of Chapter 143A of the General Statutes are hereby transferred to and vested in the Department of Human Resources, except as otherwise provided by the Executive Organization Act of 1973. They shall include, by way of extension and not of limitation, the functions of: (1) the State Board of Health, (2) the Salt Marsh Mosquito Advisory Commission, (3) the Office of Chief Medical Examiner, (4) the State Department of Social Services, (5) the State Board of Social Services, (6) the Advisory Committee for Medical Assistance, (7) the State Department of Mental Health, (8) the State Board of Mental Health, (9) the Medical Advisory Council to the State Board of Mental Health, (10) the Mental Health Council, (11) the Advisory Council on Alcoholism to the North Carolina Board of Mental Health, (12) the State Advisory Council to the North Carolina Medical Care Commission, (13) the North Carolina State Commission for the Blind, (14) the Blind Advisory Committee, Professional Advisory Committee, (15) the Vocational Rehabilitation Division, (16) the Eugenics Board of North Carolina, (17) the Governor Morehead School, (18) the North Carolina School for the Deaf, the Eastern North Carolina School for the Deaf, (19) the North Carolina Orthopedic Hospital, (20) the North Carolina Cerebral Palsy Hospital, (21) the North Carolina Sanatoriums for the Treatment of Tuberculosis, (22) the Interstate Compact on Mental Health, (23) the Council on Mental Retardation and Developmental Disabilities, (24) the North Carolina Cancer Study Commission, (25) the Interstate Compact on Juveniles, (26) the North Carolina Board of Anatomy, (27) the Governor's Coordinating Council on Aging, (28) the Confederate Women's Home, (29) the Medical Care Commission, (30) the Governor's Committee on Employment of the Handicapped, and (31) the Human Resources Division.

Sec. 120. Head of the department.—The Secretary of Human Resources shall be the head of the department.

Sec. 121. Organization of the Department.—The Department of Human Resources shall be organized initially to include the Board of Human Resources, the Commission for Health Services, the Commission for Mental Health Services, the Eugenics Commission, the Commission for the Blind, the Professional Advisory Committee, the Blind Advisory Committee, the Social Services Commission, the Commission for Medical Facility Services and Licensure, the Council for Institutional Boards, the Council on Developmental

Disabilities, the Governor's Coordinating Council on Aging, the Governor's Council on Employment of the Handicapped, the Governor's Advocacy Council on Children and Youth, the Mental Health Council, the Board of Directors of the North Carolina Sanatoriums for the Treatment of Tuberculosis, the Board of Directors of the Lenox Baker Cerebral Palsy and Crippled Children's Hospital of North Carolina, the Board of Directors of the North Carolina Orthopedic Hospital, the Board of Directors of the Governor Morehead School, the Board of Directors of the North Carolina Schools for the Deaf, the Board of Directors for the Confederate Women's Home, the Division of Health Services, the Division of Mental Health Services, the Division of Social and Rehabilitative Services, the Division of Vocational Rehabilitation Services, the Division of Blind Services, the Division of Facility Services and Licensure, the Division of Institutional Services, and such other divisions as may be established under the provisions of this act.

Sec. 122. *The Board of Human Resources.*—The Board of Human Resources shall consider and advise the Secretary of Human Resources upon any matter that the Secretary may refer to it. The Board shall assist the Secretary of Human Resources in the development of major programs and recommend priorities for the programs within the Department.

The Board of Human Resources shall have such other responsibilities and shall perform such other duties as may be specifically given to it.

The Board of Human Resources shall consist of the following 15 members: the chairman of the Commission for Health Services, the chairman of the Commission for Mental Health Services, the chairman of the Social Services Commission, the chairman of the Commission for the Blind, the chairman of the Commission for Medical Facility Services and Licensure, the chairman of the Council for Institutional Boards, eight members-at-large appointed by the Governor to serve at his pleasure, and the Secretary of Human Resources who shall be a member and chairman ex officio.

The Board of Human Resources shall meet at least once in each quarter and may hold special meetings at any time and place within the State at the call of the chairman.

Members of the Board shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Board shall constitute a quorum for the transaction of business.

All clerical and other services required by the Board shall be supplied by the Secretary of Human Resources.

Sec. 123. *Commission for Health Services; creation, powers, and duties.*—There is hereby created the State Commission for Health Services of the Department of Human Resources with the power and duty to adopt rules and regulations to be followed in the conduct of the public health program to protect and promote public health, with the power and duty to adopt, amend, and rescind rules and regulations under, and not inconsistent with, the laws of the State necessary to carry out the provisions and purposes of this Article.

(a) The Commission for Health Services has the following powers and duties:

(1) to establish standards, adopt rules and regulations that may be necessary for the protection and promotion of the public health and the control of disease;

(2) to approve rules and regulations for sanitary management adopted by the State Board of Cosmetic Art Examiners as provided by G.S. 88-23; and

(3) to create metropolitan water districts as provided by G.S. 162A-33.

(b) The Commission for Health Services shall have the power and duty to establish standards and adopt rules and regulations:

(1) for the operation of home health agencies as provided by law;

(2) regulating sanitary conditions of establishments providing food and lodging as provided by Article 5 of Chapter 72 of the General Statutes of the State of North Carolina;

(3) preparing design standards to be used as a guide in approving sewage treatment devices and holding tanks for marine toilets as provided by G.S. 75A-6(o);

(4) relating the use, storage, transportation, and disposal of radiation, radiation machines, and radioactive materials as provided by Chapter 104C of the General Statutes of the State of North Carolina;

(5) adopting minimum health and sanitation standards for day-care facilities as provided by Article 7 of Chapter 110 of the General Statutes of the State of North Carolina;

(6) establishing specifications for sanitary privies for schools where water-carried sewerage facilities are unavailable as provided by G.S. 115-132;

(7) governing the sanitation of local confinement facilities as provided by G.S. 153-53.4;

(8) governing environmental impact statements and information required in applications to determine eligibility for water supply systems under the provision of the Clean Water Bond Bill;

(9) governing the distribution of dead human bodies for the purpose of promoting the study of anatomy in the State of North Carolina as provided by Article 14 of Chapter 90 of the General Statutes of the State of North Carolina; and

(10) for the operation of nursing homes as defined in G.S. 130-9(e).

(c) The Commission is authorized and empowered to adopt such rules and regulations, not inconsistent with the laws of this State, as may be required by the federal government for grants-in-aid for public health purposes which may be made available to the State by the federal government. This section is to be liberally construed in order that the State and its citizens may benefit from such grants-in-aid.

(d) The Commission shall adopt rules and regulations consistent with the provisions of this Chapter. All rules and regulations not inconsistent with the provisions of this Chapter heretofore adopted by the Board of Health shall remain in full force and effect unless and until repealed or superseded by action of the Commission for Health Services. All rules and regulations adopted by the Commission shall be enforced by the Department of Human Resources. When directed by the Department of Human Resources, local health departments shall enforce Commission for Health Services' rules and regulations under the supervision of the Department of Human Resources.

Sec. 124. *Commission for Health Services; members, selection, quorum, compensation.*—The Commission for Health Services of the Department of Human Resources shall consist of eleven members, four of whom shall be elected by the North Carolina Medical Society and seven of whom shall be appointed by the Governor.

One of the members appointed by the Governor shall be a licensed pharmacist, one a dairyman, one a licensed veterinarian, one a licensed optometrist and one a licensed dentist. The initial members of the Commission shall be the members of the State Board of Health who shall serve for a period equal to the remainder of their current terms on the State Board of Health, three of whose appointments expire May 1, 1973, and two of whose appointments expire May 1, 1975. At the end of the respective terms of office of the initial members of the Commission, their successors shall be appointed for terms of four years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

The North Carolina Medical Society shall have the right to remove any member elected by it for misfeasance, malfeasance, or nonfeasance, and the Governor shall have the right to remove any member appointed by him for misfeasance, malfeasance, or nonfeasance in accordance with the provisions of Section 13 of the Executive Organization Act of 1973. Vacancies on said Commission among the membership elected by the North Carolina Medical Society shall be filled by the executive committee of the Medical Society until the next meeting of the Medical Society, when the Medical Society shall fill the vacancy for the unexpired term. Vacancies on said Commission among the membership appointed by the Governor shall be filled by the Governor for the unexpired term.

A majority of the members of the Commission shall constitute a quorum for the transaction of business.

The members of the Commission shall receive per diem and necessary traveling and subsistence expenses in accordance with the provisions of G.S. 138-5.

Sec. 125. *Officers of the Commission for Health Services.*—The Commission for Health Services shall have a chairman and a vice-chairman. The chairman shall be designated by the Governor from among the members of the Commission to serve as chairman at his pleasure. The vice-chairman shall be elected by and from the members of the Commission and shall serve for a term of two years or until the expiration of his regularly appointed term.

Sec. 126. *Election meetings.*—The meeting of the Commission for Health Services for the election of vice-chairman shall be at the first regular meeting after the joint session of the Commission for Health Services and the North Carolina Medical Society at the annual meeting of the North Carolina Medical Society each odd-numbered year.

Sec. 127. *Regular and special meetings.*—Each year there shall be four regular meetings of the Commission for Health Services, one of which shall be held during the annual meeting and conjointly with a general session of the North Carolina Medical Society at which time and place the annual report shall be submitted by the Secretary of Human Resources or his designee. The other three meetings shall be at such times and places as the chairman of the Commission shall designate. Special meetings of the Commission may be called by the chairman, or by a majority of the members of the Commission.

Sec. 128. *Conforming changes.*—(a)(1) Whenever the words "State Board of Health" or "Board" when referring to the State Board of Health are used or appear in any statute or law of this State, the same shall be deleted and

the words "Department of Human Resources" or "Department," as appropriate, shall be inserted in lieu thereof, unless otherwise provided for in the Executive Organization Act of 1973. With the exception that in the following references, the words "State Board of Health" or "Board" shall be deleted and the words "Commission for Health Services" or "Commission," as appropriate, shall be inserted in lieu thereof: G.S. 20-9(4), lines 6, 7, 8, 9, 11, 13, 15; G.S. 20-139.1(b), lines 3, 4, and 8; G.S. 51-9, line 8; G.S. 51-11, line 1 of paragraph 2; G.S. 72-46, line 7 of paragraph 1 and line 3 of paragraph 2; 75A-6(o), line 5 of paragraph 2, line 4 of paragraph 3, and line 4 of paragraph 5; G.S. 88-23, line 9; G.S. 87-16, line 6; G.S. 87-96, line 2 of paragraph 2; G.S. 88-28(7), line 3; G.S. 88-28.1, line 5; G.S. 90-78, line 16; G.S. 90-87(14), line 2; G.S. 90-88(a), lines 1, 5, 7, 14, and 20; G.S. 90-88(b), line 1; G.S. 90-88(c), line 1; G.S. 90-88(d), lines 2, 6, 7, 9, 12, and 13; G.S. 90-88(e), line 1; G.S. 90-89, line 4; G.S. 90-90, line 4; G.S. 90-91, line 4; G.S. 90-91(i), line 1; G.S. 90-92, line 4; G.S. 90-92(b), line 1; G.S. 90-93, line 4; G.S. 90-94, line 4; G.S. 90-106(b), line 1; G.S. 90-113.2, lines 2 and 6; G.S. 90-203(b), line 30; G.S. 90-205, line 3; G.S. 90-207, line 11; G.S. 104C-4, paragraph 1, lines 1, 7, and 10; G.S. 104C-4, paragraph 3, line 1; G.S. 104C-4, paragraph 4, lines 1, 5, 7, 11, and 13; G.S. 104C-4, paragraph 5, lines 1 and 3; G.S. 104C-4, paragraph 9, lines 7 and 11; G.S. 104C-4, paragraph 10, line 1; G.S. 104C-4, paragraph 11, line 1; G.S. 104C-4, paragraph 12, lines 1, 3, and 5; G.S. 106-139(c), lines 2 and 8; G.S. 106-139(e), line 3; G.S. 106-364(3), line 4; G.S. 106-365, line 4; G.S. 106-383, line 5; G.S. 108-77(d), line 3; G.S. 110-91(1), paragraph 1, lines 3 and 5; G.S. 110-92, paragraph 2, line 5; G.S. 113-132(c), line 4; G.S. 115-132, paragraph 2, line 5; G.S. 130-9(b), line 4; G.S. 130-9(c), line 3; G.S. 130-9(d), line 1; G.S. 130-10, line 2; G.S. 130-11(1), line 3; G.S. 130-11(2), line 4; and G.S. 130-11(13), line 2; Chapter 909, 1971 Session Laws, all references; G.S. 130-14, line 2; G.S. 130-17(b), lines 4, 7, 8, and 9; G.S. 130-24, line 1; G.S. 130-26, lines 3 and 4; G.S. 130-31, line 4 of paragraph 2; G.S. 130-81, line 3; G.S. 130-82, line 5; G.S. 130-83, line 5; G.S. 130-84, line 2; G.S. 130-86, lines 3 and 6; G.S. 130-99, line 1; G.S. 130-109(3), line 2; G.S. 130-110, line 2; G.S. 130-112, line 7; G.S. 130-121, line 7; G.S. 130-123, line 2; G.S. 130-125, lines 1, 4, 6, 8, 13, and 15; G.S. 130-128(1), line 6; G.S. 130-128(8), line 3; G.S. 130-128(9)a., line 10; G.S. 130-128(10), lines 3 and 5; G.S. 130-128(11), line 1; G.S. 130-128(17)b., line 6; G.S. 130-133, lines 7 and 8; G.S. 130-148(a), lines 9, 11, 18, and 20; G.S. 130-148(a), last paragraph lines 14 and 15; G.S. 130-149, line 14 of paragraph 2; G.S. 130-150, line 12; G.S. 130-151, lines 10, 22, 23, and 24; G.S. 130-151.1, lines 7, 11, and 26, both references, and 29; G.S. 130-157, line 9; G.S. 130-159, lines 6 and 10; G.S. 130-160, line 5; G.S. 130-161, line 12; G.S. 130-161.1(b)(1), line 6; G.S. 130-161.1(b)(2), line 1; G.S. 130-161.1(b)(4), line 3; G.S. 130-161.1(b)(5), line 3; G.S. 130-161.1(c), line 2; G.S. 130-161.1(d), line 2; G.S. 130-163, lines 1 and 4; G.S. 130-165, line 5; G.S. 130-166.12, line 3; G.S. 130-167, line 2; G.S. 130-169.2, line 2; G.S. 130-169.3, line 2; G.S. 130-169.4, line 5; G.S. 130-170, line 4 of paragraph 1 and line 2 of paragraph 2; G.S. 130-170.1(b), line 1; G.S. 130-170.1(c), line 1, second reference of line 3, line 4, both references of lines 6 and 7; G.S. 130-172, line 2 of paragraph 1 and lines 2, 4, and 10 of paragraph 2; G.S. 130-173, line 4 of paragraph 1 and line 4 of paragraph 2; G.S. 130-175, line 3 of paragraph 2; G.S. 130-176, line 7 of paragraph 1, line 6 of paragraph 3 and line 3 of paragraph 5; G.S. 130-177, line 5 of paragraph 2, line 5 of paragraph 5, line 1 of paragraph 6, and line 4 of paragraph 7; G.S. 130-180, line 3; G.S.

130-181, lines 4, 8, and 10; G.S. 130-183, line 5; G.S. 130-184, line 3; G.S. 130-184.1, line 7; G.S. 130-187, line 4; G.S. 130-190, line 3; G.S. 130-201, line 2; G.S. 130-203, line 7; G.S. 130-209, line 4 of paragraph 1 and line 5 of paragraph 2; G.S. 130-211(b), lines 9, 16, and 19; G.S. 130-211(c), lines 4 and 11 both references, 15 and 30; G.S. 130-220, lines 9 and 22 both references, and 24; G.S. 130-230(b), line 7; G.S. 130-232(a), line 1; G.S. 130-232(b), line 5; G.S. 130-233(b), line 1; G.S. 130-233(c), line 8; G.S. 130-246, line 2; G.S. 143-215.1(a), line 6 of paragraph 2; G.S. 143-347, line 2; G.S. 147-33.2(8)b., line 7; G.S. 153-53.3(b), line 6; G.S. 153-53.4(a), line 1; G.S. 153-53.4(b), lines 3 and 10; G.S. 153-166, lines 3 and 14; G.S. 156-69, line 2 of paragraph 2; G.S. 159-95, lines 4 and 7; G.S. 162A-33, all references; G.S. 162A-34(a), line 16; and G.S. 162A-35, lines 9 23, 24, and 27.

(2) Whenever the words "North Carolina Board of Anatomy" or "Board" when referring to the North Carolina Board of Anatomy are used or appear in any statute or law of this State, the same shall be deleted and the words "Department of Human Resources" or "Department," as appropriate, shall be inserted in lieu thereof, with the exception that the word "Board" in G.S. 90-215, line 4, shall be deleted and the words "Commission for Health Services" shall be inserted in lieu thereof.

(3) Whenever the words "Chairman of the Board of Anatomy" or "Chief Medical Examiner" or "State Health Director" are used or appear in any statute or law of this State, the same shall be deleted and the words "Secretary of Human Resources" or "Secretary", as appropriate, shall be inserted in lieu thereof.

(4) Whenever the words "Office of Vital Statistics" or "Central Office of Vital Statistics" or "Bureau of Vital Statistics" are used or appear in any statute or law of this State, the same shall be deleted and the words "Department of Human Resources" are hereby inserted in lieu thereof.

(b) In addition to the foregoing, the following amendments to the General Statutes of North Carolina are hereby made:

(1) The words "and to issue permits" shall be deleted and the words "and the Department of Human Resources may issue permits" are hereby inserted in lieu thereof on line 7 of G.S. 20-139.1(b).

(2) The first sentence of G.S. 72-46 is hereby rewritten to read as follows: "For the better protection of the public health, the State Commission for Health Services is hereby authorized, empowered and directed to prepare rules and regulations governing the sanitation of any hotel, cafe, restaurant, tourist home, motel, summer camp, food or drink stand, sandwich manufacturing establishment, and all other establishments where food or drink is prepared, handled, and served for pay, or where lodging accommodations are provided. The Department of Human Resources is hereby authorized and empowered to enforce these rules and regulations."

(3) The words "by a majority of the members of the North Carolina Board of Anatomy" shall be deleted and the words "by the Secretary of Human Resources" shall be inserted in lieu thereof on line 4 of G.S. 90-214.

(4) The words "State of North Carolina in the Division of Dental Health of the State Board of Health and especially trained by said division" are hereby deleted and the words "Department of Human Resources and especially trained by said Department" are hereby inserted in lieu thereof on lines 4 and 5 of G.S. 90-233(a).

(5) The words "the Director of the Division of Sanitary Engineering, State Board of Health" are hereby deleted and the words "a sanitary engineer employed by the Department of Human Resources" are inserted in lieu thereof on line 6 of G.S. 90A-2.

(6) G.S. 104C-4 is hereby amended by inserting the words "or Department" after the words "Commission for Health Services" on line 2 of paragraph 11, and line 1 of paragraph 12, thereof.

(7) G.S. 106-143 shall be rewritten to read as follows: "Nothing in this Article shall be construed as in any way amending, abridging, or otherwise affecting the validity of any law or ordinance relating to the Commission for Health Services or the Department of Human Resources or any local health department in their sanitary work in connection with public and private water supplies, sewerage, meat, milk, milk products, shellfish, finfish, or other foods, or food products, for the production, handling, or processing thereof; but this Article shall be construed to be in addition thereto."

(8) The words "North Carolina State Board of Health" are hereby deleted and the words "Department of Human Resources and the Commission for Health Services" are inserted in lieu thereof on lines 5 and 6 of G.S. 113-415; line 2 of G.S. 130-1(e); and lines 4 and 5 of G.S. 130-19.

(9) G.S. 130-3(c), (d), (e), (f), (g), (h), and (i) shall be redesignated G.S. 130-3(d), (e), (f), (g), (h), (i), and (j) respectively.

(10) G.S. 130-3(b) shall be rewritten to read as follows: "'Commission' means 'Commission for Health Services'."

(11) A new section designated G.S. 130-3(c) shall read as follows: "'Department' means 'Department of Human Resources'."

(12) G.S. 130-3(i) shall be redesignated G.S. 130-3(j) and shall be rewritten to read as follows: "'Secretary' means the 'Secretary of Human Resources'."

(13) The words "State Board of Health" shall be deleted and the words "Secretary of Human Resources" shall be inserted in lieu thereof on line 1 of G.S. 130-9(c).

(14) G.S. 130-9(e)(1) shall be rewritten to read "The Commission for Health Services shall establish standards, adopt rules and regulations for the operation, inspection, and licensing of nursing homes as the same are hereinafter defined."

(15) There is hereby created a new section to be designated G.S. 130-9(e)(1a) which shall read as follows: "The Department of Human Resources shall inspect and license nursing homes as the same are hereinafter defined utilizing the standards, rules and regulations provided for in G.S. 130-9(e)(1)."

(16) The words "and be licensed by the State Board of Health" shall be deleted and the words "the Commission for Health Services and be licensed by the Department of Human Resources" shall be inserted in lieu thereof on lines 7 and 8 of G.S. 130-9(e)(5).

(17) The words "and the license issued by the State Board of Health" shall be deleted and the words "the Commission for Health Services and the license issued by the Department of Human Resources" shall be inserted in lieu thereof on lines 10 and 11 of G.S. 130-9(e)(5).

(18) Rewrite the last sentence of G.S. 130-9(e)(5) to read "the Commission for Health Services shall consult with the Commission for Social

Services regarding the standards for the boarding home area of the homes licensed by the Department of Human Resources as combination nursing homes and boarding homes for the aged and infirm."

(19) The words "treasurer of the" shall be deleted from line 3 of G.S. 130-33.

(20) The words "State Health Director" shall be deleted and the words "Chairman of the Commission for Health Services" shall be inserted in lieu thereof on line 12 of G.S. 130-148(a).

(21) The words "State Health Director" shall be deleted and the words "Chairman of the Commission for Health Services" shall be inserted in lieu thereof on line 11 of G.S. 130-151.

(22) The words "Health Director" shall be deleted and the words "Chairman of the Commission for Health Services" shall be inserted in lieu thereof on line 13 of G.S. 130-151.1.

(23) The words "State Board of Health" shall be retained on line 3 of G.S. 130-152; line 2 of G.S. 130-152.1; line 1 of G.S. 130-152.2; line 3 of G.S. 130-153; line 5 of G.S. 130-154; and line 5 of G.S. 130-166.7.

(24) The words "Board of Health" shall be deleted and the words "Commission for Health Services or Department of Human Resources" shall be inserted in lieu thereof on line 25 of G.S. 130-161.

(25) G.S. 130-166.18 shall be rewritten to read as follows: "The Department of Human Resources is authorized and directed to engage in research, conduct investigations and surveys, make inspections, and establish a statewide solid waste disposal program. In establishing a program, the Department shall have authority to:

(1) develop a comprehensive program for implementation of safe and sanitary practices for disposal of solid waste throughout the State; and

(2) advise, consult, cooperate, and contract with other agencies and units of State and local governments, the federal government, and industries and individuals in the formulation and carrying out of a solid waste disposal program.

The Commission shall have authority to provide standards for the establishment, location, operation, maintenance, use and discontinuance of solid waste disposal sites and facilities. Such standards shall be designed to accomplish the maintenance of safe and sanitary conditions in and around solid waste disposal sites and facilities, and shall be based on recognized public health practices and procedures, sanitary engineering research and studies, and current technological development in equipment and methods. Such standards shall not apply to the disposal of solid waste accumulated by an individual or individual family or household unit and disposed of on his own property."

(26) G.S. 130-169.01 shall be rewritten to read as follows: "The Commission for Health Services is authorized to adopt regulations concerning the sanitary aspects of the harvesting, processing, and handling of shellfish and crustacea. The Department of Human Resources is authorized to enforce such regulations and may issue and revoke permits, regulate, prohibit, or restrict such activities relating to the sanitation of shellfish and crustacea as may be necessary, and in addition to exercise all other powers granted within this Chapter with regard to dealings with shellfish and crustacea."

(27) G.S. 130-169.04 shall be rewritten to read as follows: "The Commission for Health Services is authorized to adopt regulations concerning the sanitary aspects of the harvesting, processing, and handling of scallops. The

Department of Human Resources shall enforce such regulations and may issue and revoke permits, regulate, prohibit, or restrict such activities relating to the sanitation of scallops as may be necessary, and in addition to exercise all other powers granted within this Chapter with regard to dealings in scallops."

(28) G.S. 130-169.06 shall be rewritten to read as follows: "Nothing in this Article is intended to deprive the Commission for Health Services or the Department of Human Resources of any authority as may elsewhere have been granted as to sanitation generally or as to control of harvesting, processing, and handling of other foods."

(29) The words "with the State Board of Public Welfare" shall be deleted from line 14 of G.S. 130-181.

(30) The words "Central Office of Vital Statistics of the State Board of Health" shall be deleted and the words "Department of Human Resources" shall be inserted in lieu thereof on lines 3 and 5 of G.S. 130-184.1.

(31) The words "Division of Oral Hygiene of the North Carolina State Board of Health" shall be deleted and the words "Department of Human Resources in the area of oral hygiene" shall be inserted in lieu thereof on line 4 of G.S. 130-189.

(32) The words "the Director of the Division of Oral Hygiene" shall be deleted and the words "an individual selected by the Secretary with responsibilities in the area of oral hygiene" shall be inserted in lieu thereof on lines 3 and 4 of G.S. 130-190.

(33) G.S. 130-192 shall be rewritten to read as follows: "The responsibility for post-mortem medicolegal examinations as contained in Article 21 of Chapter 130 of the General Statutes of North Carolina shall be performed by a skilled pathologist eligible to be licensed as a doctor of medicine selected by the Secretary of Human Resources."

(34) The words "under the supervision of the Chief Medical Examiner" shall be deleted from line 2 of G.S. 130-193.

(35) The words "The State Board of Health shall provide the Chief Medical Examiner with such furniture, equipment, records and supplies as may be required in the conduct of this office." shall be deleted from lines 9, 10, and 11 of G.S. 130-193.

(36) The words "for the Chief Medical Examiner and his staff" are hereby deleted from lines 14 and 15 of G.S. 130-193.

(37) The words "by the Chief Medical Examiner" are hereby deleted from lines 5 and 6 of G.S. 130-196.

(38) G.S. 130-204 shall be rewritten to read as follows: "Authorized representatives of the Commission for Health Services, any local board of health, or the Department of Human Resources shall have at all times the right of proper entry upon any and all parts of the premises of any place in which such entry is necessary to carry out the provisions of this Chapter, or the rules and regulations adopted under the authority of this Chapter; and it shall be unlawful for any person to resist a proper entry by such authorized representatives of the Commission for Health Services, local board of health, or the Department of Human Resources upon any premises other than a private dwelling."

(39) The words "State Health Director" shall be deleted and the words "Chairman of the Commission for Health Services" shall be inserted in lieu thereof on line 11 of G.S. 130-220.

(40) The words “with the approval of the Advisory Committee on Ambulance Service,” are hereby deleted from line 5 of G.S. 130-232(b).

(41) The words “with the advice of the Committee” are hereby deleted from line 1 of G.S. 130-238(1).

(42) The words “State Board of Health shall develop and” shall be deleted and the words “Commission for Health Services shall develop and the Department” shall be inserted in lieu thereof on line 7 of G.S. 153-53.3(b).

(43) The words “State Board of Health shall also prepare a score sheet” shall be deleted and the words “Commission for Health Services shall also approve a score sheet prepared by the Department” shall be inserted in lieu thereof on line 1 of G.S. 153-53.4(b).

(c) The following sections of the General Statutes of North Carolina are hereby repealed: G.S. 90-211; G.S. 130-4; G.S. 130-5; G.S. 130-6; G.S. 130-7; G.S. 130-8; G.S. 130-9(a); G.S. 130-12; G.S. 130-194; G.S. 130-195; G.S. 130-231; and G.S. 130-237.

Sec. 129. *Commission for Mental Health Services; creation, powers, and duties.*—There is hereby created the Commission for Mental Health Services of the Department of Human Resources with the power and duty to adopt rules and regulations to be followed in the conduct of the mental health program to protect and promote mental health with the power and duty to adopt, amend and rescind rules and regulations under and not inconsistent with the laws of the State necessary to carry out the provisions and purposes of this Article.

(a) The Commission for Mental Health Services is authorized and empowered to adopt such rules and regulations that may be necessary and desirable for the programs administered by the Department of Human Resources as provided in Chapter 122 of the General Statutes of North Carolina for the mentally retarded, mentally ill, and inebriate, not inconsistent with the management responsibilities of the Secretary of Human Resources provided by Chapter 143A of the General Statutes of North Carolina and the Executive Organization Act of 1973.

(b) The Commission for Mental Health Services shall have the power and duty to establish standards and adopt rules and regulations:

(1) for the professional care of patients admitted to institutions established in accordance with Chapter 122, including the authority to establish rules and regulations not contrary to law governing the admission of persons to any State hospital or other institution under its jurisdiction which is now or may hereafter be established;

(2) for establishing minimum standards for local community alcoholism programs as a condition for participation in State grants-in-aid authorized by G.S. 122-7.1(b);

(3) for the establishment and operation of local mental health clinics provided by Article 2A of Chapter 122 of the General Statutes of the State of North Carolina;

(4) for the establishment of area mental health programs provided by Article 2C of Chapter 122 of the General Statutes of North Carolina; and

(5) for the inspection and licensing of private hospitals for the mentally disordered as provided by G.S. 122-72.

(c) The Commission is authorized and empowered to adopt such rules and regulations, not inconsistent with the laws of this State, as may be required by the federal government for grants-in-aid for mental health purposes which may

be made available to the State by the federal government. This section is to be liberally construed in order that the State and its citizens may benefit from such grants-in-aid.

(d) The Commission shall adopt rules and regulations consistent with the provisions of this Chapter. All rules and regulations not inconsistent with the provisions of this Chapter heretofore adopted by the Board of Mental Health shall remain in full force and effect unless and until repealed or superseded by action of the Commission for Mental Health Services. All rules and regulations adopted by the Commission shall be enforced by the Department of Human Resources.

Sec. 130. *Commission for Mental Health Services; members, selection, quorum, compensation.*—The Commission for Mental Health Services of the Department of Human Resources shall consist of fifteen members appointed by the Governor. In order that all sections of the State shall have representation on the Commission, the Governor shall name one member from each congressional district of the State and the remaining members at large. The initial members of the Commission shall be the members of the State Board of Mental Health who shall serve for a period equal to the remainder of their current terms on the State Board of Mental Health, five of whose appointments expire April 1, 1975; five of whose appointments expire April 1, 1977; and five of whose appointments expire April 1, 1979. At the end of the respective terms of office of the initial members of the Commission, their successors shall be appointed for terms of six years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term. At least two of the members shall be persons duly licensed to practice medicine in North Carolina.

The Governor shall have the power to remove any member of the Commission from office for misfeasance, malfeasance, or nonfeasance in accordance with the provisions of Section 13 of the Executive Organization Act of 1973.

The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provision of G.S. 138-5.

A majority of the Commission shall constitute a quorum for the transaction of business.

All clerical and other services required by the Commission shall be supplied by the Secretary of Human Resources.

Sec. 131. *Officers of the Commission for Mental Health Services.*—The Commission for Mental Health Services shall have a chairman and a vice-chairman. The chairman shall be designated by the Governor from among the members of the Commission to serve as chairman at his pleasure. The vice-chairman shall be elected by and from the members of the Commission and shall serve for a term of two years or until the expiration of his regularly appointed term.

Sec. 132. *Regular and special meetings.*—The Commission for Mental Health Services shall meet at least once in each quarter and may hold special meetings at any time and place within the State at the call of the chairman or upon the written request of at least eight members.

Sec. 133. *Conforming changes.*—(a)(1) Whenever the words "State Department of Mental Health" and "State Board of Mental Health" are used or

appear in any statute or law of this State, the same shall be deleted and the words "Department of Human Resources" or "Department," as appropriate, shall be inserted in lieu thereof, unless otherwise provided for in the Executive Organization Act of 1973. With the exception, that in the following references the words "State Department of Mental Health" and "State Board of Mental Health" shall be deleted and the words "Commission for Mental Health Services" or "Commission," as appropriate, shall be inserted in lieu thereof: G.S. 122-1.2, line 4; G.S. 122-4, line 2; G.S. 122-7.2, line 7; G.S. 122-12, line 1; G.S. 122-16.1(a), line 11; G.S. 122-16.1(b), line 1; G.S. 122-16.1(d), line 1; G.S. 122-35.6, line 3 of paragraph 3; G.S. 122-35.18(1), line 2; G.S. 122-35.19, line 1; G.S. 122-35.21, line 7; G.S. 122-39, line 16; G.S. 122-69, lines 8 and 13; G.S. 122-63.1, line 5 of paragraph 2; G.S. 122-70, line 5; G.S. 122-72(c), line 13 and G.S. 122-72(d), line 6.

(2) Whenever the words "Commissioner of Mental Health" or "Commissioner", when referring to the Commissioner of Mental Health, are used or appear in any statute or law of this State, the same shall be deleted and the words "Secretary of Human Resources" or "Secretary," as appropriate, shall be inserted in lieu thereof with the exception that the words "Commissioner of Mental Health" on lines 6 and 14 of G.S. 122-35.26 shall be deleted and the words "Commission for Mental Health Services" shall be inserted in lieu thereof.

(b) In addition to the foregoing, the following amendments to the General Statutes of North Carolina are hereby made:

(3) The words "Hospitals Board of Control (Department of Mental Health)" are hereby deleted and the words "Department of Human Resources" shall be inserted in lieu thereof on line 15 of G.S. 105-279(c).

(4) G.S. 122-1 is amended in its entirety by rewriting it to read, "The Department of Human Resources is to have jurisdiction over all of the State's mental hospitals, all of the State's residential centers for the mentally retarded, and joint State and community sponsored mental health clinics. The Department is to have authority and responsibility over all phases of mental health in North Carolina to the extent provided in this chapter including that heretofore vested by law in the Department of Mental Health."

(5) The word "policies" shall be deleted and the words "rules and regulations" shall be inserted in lieu thereof on line 4 of G.S. 122-1.2.

(6) The words "the State Board of Health, and the State Commission for the Blind" are hereby deleted from lines 2 and 3 of G.S. 122-1.2(3).

(7) The words "cooperate with the State Board of Public Welfare and the State Board of Health in their" are hereby deleted and the word "coordinate" is inserted in lieu thereof on line 1 of G.S. 122-1.2(4).

(8) The first paragraph of G.S. 122-3 shall be rewritten to read "The Commission for Mental Health Services shall have the authority to establish rules and regulations not contrary to law governing the admission of persons to any state-owned mental hospital or to other institutions established in accordance with this Chapter. Clerks of superior court of the several counties of the State may make commitments to such institutions in the same manner now provided by law for the several State hospitals and training schools.

(9) The words "The Department of Human Resources" shall be substituted for the word "It" on line 5 of G.S. 122-4.

(10) The word “it” shall be deleted and the word “Commission” shall be inserted in lieu thereof on line 4 of G.S. 122-7.1(a).

(11) The third sentence of G.S. 122-7.2 shall be rewritten to read as follows: “The Commission is authorized to establish rules and regulations for the admission, care, and treatment of such persons. However, the Department shall be authorized to determine costs and to set rates for the maintenance of these persons.

(12) G.S. 122-13 shall be rewritten to read as follows: “The North Carolina State Commission for Mental Health Services is authorized to make such rules and regulations as in its discretion may seem best for the transfer of patients from one State hospital or institution under the control of the Department of Human Resources to another State hospital or institution under its control. The Department of Human Resources is further authorized and empowered to transfer from one State hospital to another for the mentally disordered any funds appropriated for permanent improvement or maintenance, in the discretion of the Secretary.

(13) The words “operated by the State Department of Mental Health” shall be deleted and the words “established in accordance with this Chapter” shall be inserted in lieu thereof on line 5 of G.S. 122-16.1(a).

(14) The word “division” is hereby deleted and the word “subdivision” is inserted in lieu thereof on line 7 of G.S. 122-35.13.

(15) The words “subject to the supervision, direction and control of the State Board of Mental Health” shall be deleted and the words “Subject to the rules and regulations of the State Commission for Mental Health Services” shall be inserted in lieu thereof on lines 1 and 2 of G.S. 122-35.20(e).

(16) The last sentence of G.S. 122-35.21 shall be rewritten to read as follows: “The area mental health director shall be the employee of the area mental health program, responsible to the area mental health board for carrying out the policies and programs of the area mental health board, and the rules and regulations of the Commission for Mental Health Services.”

(17) The words “standards set by the Commissioner of Mental Health” shall be deleted and the words “rules and regulations of the State Commission for Mental Health Services” shall be inserted in lieu thereof on line 4 of G.S. 122-35.26.

(18) The word “standards” shall be deleted and the words “rules and regulations” shall be inserted in lieu thereof on line 13 of G.S. 122-35.26.

(19) The words “by the Board of Mental Health” shall be deleted and the words “by the Department of Human Resources in accordance with rules and regulations promulgated by the Commission for Mental Health Services” are hereby inserted in lieu thereof on lines 2 and 3 of G.S. 122-63.1.

(20) Delete the words “with the approval of the Council on Mental Retardation and Developmental Disabilities” from lines 2 and 3 of G.S. 122-71.4.

(21) The words “with the approval of the Council on Mental Retardation and Developmental Disabilities” shall be deleted from lines 8 and 9 of G.S. 122-71.5.

(22) There is hereby created a new section to be designated G.S. 122-71.6 which shall read as follows: “The Council on Developmental Disabilities created by the Executive Organization Act of 1973 shall advise the Secretary of

Human Resources as to the appropriateness of the expenditures provided for in this Article.”

(23) The words “or from the State Board of Public Welfare in accordance with subsection (e) of this section” shall be deleted from lines 4 and 5 of G.S. 122-72(a).

(24) The words “or from the State Board of Public Welfare in accordance with subsection (e) of this section” shall be deleted from G.S. 122-72(a), lines 9 and 10.

(25) G.S. 122-72(b) is hereby amended by rewriting the last sentence thereof to read: “the Commission for Mental Health Services shall prescribe minimum standards for each type of establishment which must be met by the applicant before the license will be granted by the Department.”

(26) The word “may” shall be deleted and the word “shall” shall be inserted in lieu thereof on line 13 of G.S. 122-72(c).

(27) G.S. 122-72(e) shall be rewritten to read, “The authority to adopt standards for inspection of licensing privately operated homes or other institutions (including religious facilities) for mentally ill persons, mentally retarded persons, and inebriates shall be the responsibility of the Commission for Mental Health Services.”

(28) The words “or Board of Public Welfare” shall be deleted from lines 4 and 5 of G.S. 122-74.

(29) The words “the Board of Directors” shall be deleted and the words “the Commission for Mental Health Services” shall be inserted in lieu thereof on line 8 of G.S. 122-83.

(30) The words “The Advisory Council shall study, evaluate, and make recommendations to the State Board of Mental Health in areas” are hereby deleted and the words “The Department of Human Resources shall study, evaluate, and coordinate” are inserted in lieu thereof on line 1 of G.S. 122-109.

(c) The following sections of the General Statutes of North Carolina are hereby repealed: G.S. 35-70; G.S. 35-71; G.S. 35-72; G.S. 122-1.1; G.S. 122-1.3; G.S. 122-1.4; G.S. 122-1.5; G.S. 122-1.6; G.S. 122-2; G.S. 122-2.1; G.S. 122-9; G.S. 122-11; G.S. 122-17; G.S. 122-25; G.S. 122-32; G.S. 122-108; G.S. 122-110; and G.S. 122-111.

Sec. 133.1. *Eugenics Commission; creation, powers, and duties.*—There is hereby created the Eugenics Commission of the Department of Human Resources with the power and duty to promulgate rules and regulations concerning the asexualization or sterilization of any feeble-minded or mentally diseased patient or inmate of any penal or charitable institution supported wholly or in part by the State of North Carolina or any subdivision thereof. The Commission shall also promulgate rules and regulations concerning the asexualization or sterilization of any mentally diseased or feeble-minded county resident, not an inmate of a public institution, upon the petition of the director of public welfare or other similar public official performing in whole or in part the functions of such director, or of the next of kin, or the legal guardian of such mentally defective person. The Commission shall make rules and regulations consistent with the provisions of this Chapter. Any rules and regulations heretofore adopted by the Eugenics Board shall remain in full force and effect unless and until repealed or superseded by action of the Eugenics Commission. All rules and regulations adopted by the Commission shall be enforced by the Department of Human Resources.

Sec. 133.2. *The Eugenics Commission; members, selection, quorum, compensation.*—The Eugenics Commission of the Department of Human Resources shall consist of the following five members appointed by the Governor:

- (1) The Director of the Division of Social and Rehabilitative Services,
- (2) The Director of Health Services,
- (3) The chief medical officer of an institution for the feeble-minded or insane in the State of North Carolina,
- (4) The chief medical officer of the Department of Human Resources in the area of mental health services,
- (5) The Attorney General of the State of North Carolina.

Any one of those officials may for the purpose of a single hearing delegate his power to act as a member of said Board to an assistant: Provided, said delegation is made in writing, to be included as a part of the permanent record in said case. The said Commission shall from time to time elect a chairman from its own membership and adopt and from time to time modify rules governing the conduct of proceedings before it.

A majority of the Commission shall constitute a quorum for the transaction of business.

All clerical and other services required by the Commission shall be supplied by the Secretary of Human Resources.

Sec. 133 -3. *Eugenics Commission; conforming changes.*—(a)(1) Whenever the words 'Eugenics Board of North Carolina' or 'Eugenics Board' or 'Board' when referring to the Eugenics Board of North Carolina are used or appear in any statute or law of the State of North Carolina, the same is hereby deleted and the words 'Eugenics Commission,' or 'Commission' as appropriate are hereby inserted in lieu thereof unless otherwise provided for in the Executive Organization Act of 1973.

(2) Whenever the words 'secretary of the Eugenics Board' or 'secretary of the board' or 'secretary' when referring to the secretary of the Eugenics Board are used or appear in any statute or law of the State of North Carolina, the same is hereby deleted and the words 'Secretary of Human Resources' or 'Secretary' as appropriate are hereby inserted in lieu thereof unless otherwise provided for in the Executive Organization Act of 1973.

(b) The following sections are hereby repealed: G.S. 35-40, G.S. 35-41, and G.S. 35-42.

Sec. 134. *Social Services Commission; creation, powers, and duties.*—There is hereby created the Social Services Commission of the Department of Human Resources with the power and duty to adopt rules and regulations to be followed in the conduct of the State's social service programs with the power and duty to adopt, amend, and rescind rules and regulations under and not inconsistent with the laws of the State necessary to carry out the provisions and purposes of this Article.

(a) The Social Services Commission is authorized and empowered to adopt such rules and regulations that may be necessary and desirable for the programs administered by the Department of Human Resources as provided in Chapter 108 of the General Statutes of the State of North Carolina.

(b) The Social Services Commission shall have the power and duty to establish standards and adopt rules and regulations:

(1) for the programs of public assistance established by federal legislation and by Article 2 of Chapter 108 of the General Statutes of the State of North Carolina;

(2) to achieve maximum cooperation with other agencies of the State and with agencies of other states and of the federal government in rendering services to strengthen and maintain family life and to help recipients of public assistance obtain self-support and self-care; and

(3) for the placement and supervision of dependent and delinquent children and payment of necessary costs of foster home care for needy and homeless children as provided by G.S. 108-66.

(c) The Social Services Commission shall have the power and duty to establish and adopt standards:

(1) for the inspection and licensing of maternity homes as provided by G.S. 108-76;

(2) for the inspection and licensing of all boarding homes, rest homes, and convalescent homes for aged or infirm persons as provided by G.S. 108-77;

(3) for the inspection and licensing of private child care institutions as provided by G.S. 108-78;

(4) for the inspection and operation of jails or local confinement facilities as provided by G.S. 153-51 and Part 2 of Article 3 of Chapter 108 of the General Statutes of the State of North Carolina;

(5) for the payment of the costs of necessary day care for minor children of needy families; and

(6) for the regulation and licensing of public solicitors as provided by Article 3 of Chapter 108 of the General Statutes of the State of North Carolina.

(d) The Social Services Commission shall have the power and duty to authorize investigations of social problems, with authority to subpoena witnesses, administer oaths, and compel the production of necessary documents.

(e) The Social Services Commission shall have the power and duty to ratify reciprocal agreements with agencies in other states that are responsible for the administration of public assistance and child welfare programs to provide assistance and service to the residents and nonresidents of the State.

(f) The Commission is authorized and empowered to adopt such rules and regulations, not inconsistent with the laws of this State, as may be required by the federal government for grants-in-aid for social services purposes which may be made available for the State by the federal government. This section is to be liberally construed in order that the State and its citizens may benefit from such grants-in-aid.

(g) The Commission shall adopt rules and regulations consistent with the provisions of this Chapter. All rules and regulations not inconsistent with the provisions of this Chapter heretofore adopted by the Board of Social Services shall remain in full force and effect unless and until repealed or superseded by action of the Social Services Commission. All rules and regulations adopted by the Commission shall be enforced by the Department of Human Resources.

Sec. 135. Social Services Commission; members, selection, quorum, compensation.—The Social Services Commission of the Department of Human Resources shall consist of seven members appointed by the Governor. The initial members of the Commission shall be the members of the State Board of Social Services who shall serve for a period equal to the remainder of their current terms on the State Board of Social Services two of whose appointments expire

April 1, 1975; two of whose appointments expire April 1, 1977; and three of whose appointments expire April 1, 1979. At the end of the respective terms of office of the initial members of the Commission, their successors shall be appointed for terms of six years and until their successors are appointed and qualified. Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Commission from office for misfeasance, malfeasance, or nonfeasance in accordance with the provisions of Section 13 of the Executive Organization Act of 1973.

The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Commission shall constitute a quorum for the transaction of business.

All clerical and other services required by the Commission shall be supplied by the Secretary of Human Resources.

Sec. 136. Regular and special meetings.—The Social Services Commission shall meet at least once in each quarter and may hold special meetings at any time and place within the State at the call of the chairman or upon the written request of at least four members.

Sec. 137. Officers of the Social Services Commission.—The Commission for Social Services shall have a chairman and a vice-chairman. The chairman shall be designated by the Governor from among the members of the Commission to serve as chairman at his pleasure. The vice-chairman shall be elected by and from the members of the Commission and shall serve for a term of two years or until the expiration of his regularly appointed term.

Sec. 138. Social Services Commission; conforming changes.—(a) (1) Whenever the words "State Board of Social Services" and "State Board" are used or appear in any statute or law of this State, the same shall be deleted and the words "Department of Human Resources" or "Department," as appropriate, shall be inserted in lieu thereof, unless otherwise provided for in the Executive Organization Act of 1973. With the exception that in the following references the words "State Board of Social Services" and "State Board" shall be deleted and the words "Social Services Commission" or "Commission," as appropriate, shall be inserted in lieu thereof: G.S. 14-320, lines 7 and 11; G.S. 108-7, line 3; G.S. 108-9(a), line 3; G.S. 108-9(b), line 2; G.S. 108-9(c), line 2; G.S. 108-11(a), line 2; G.S. 108-11(b), lines 3 and 7; G.S. 108-11(c)(1), lines 1; G.S. 108-15(5), line 2; G.S. 108-19(5), lines 1 and 2; G.S. 108-19(10), line 2; G.S. 108-23, line 3; G.S. 108-24(4), line 2; G.S. 108-25(2), line 3; G.S. 108-26(b), line 4; G.S. 108-27(a), line 5; G.S. 108-27(b), line 5; G.S. 108-28(1), line 1; G.S. 108-39(c), line 4; G.S. 108-39.1(g), line 3; G.S. 108-40, line 5; G.S. 108-42(c), line 4; G.S. 108-42(d), line 1; G.S. 108-43, line 2; G.S. 108-44(a), line 5; G.S. 108-44(b), line 2; G.S. 108-44(d), line 3; G.S. 108-44(e), line 10; G.S. 108-44(f), line 8; G.S. 108-45(a), line 9; G.S. 108-50, line 9; G.S. 108-54, line 15; G.S. 108-55, line 16; G.S. 108-56(a), line 3; G.S. 108-58, line 8; G.S. 108-59, line 2; G.S. 108-60, lines 2 and 10; G.S. 108-63(a), line 4; G.S. 108-63(b), line 3; G.S. 108-63(c), line 5; G.S. 108-65, lines 3 and 6; G.S. 108-66(a), line 5; G.S. 108-69(c), line 1; G.S. 108-69(e), line 3; G.S. 108-76(a) line 3; G.S. 108-77(a), line 3; G.S. 108-78(a), line 3; G.S. 108-79, line 4; G.S. 110-24, line 9 of

paragraph 2; G.S. 110-51, line 1; G.S. 110-119(4), line 2; G.S. 110-122, line 7; G.S. 148-33.1(f), last paragraph, line 2; G.S. 153-9(38), line 2; G.S. 153-9(58)e., line 4; G.S. 153-51, line 1; G.S. 153-52(a), line 12; and G.S. 153-166, line 13.

(2) Whenever the words "Commissioner for Social Services" or "Commissioner", when referring to the Commissioner for Social Services, or "Director of Public Assistance" appear in any statute or law of this State, the same shall be deleted and the words "Secretary of Human Resources" or "Secretary," as appropriate, shall be inserted in lieu thereof unless otherwise provided for in the Executive Organization Act of 1973. With the exception that in G.S. 108-70, lines 3, 4, and 6 the word "Commissioner" shall be deleted and the words "Social Services Commission" shall be inserted in lieu thereof.

(3) Whenever the words "North Carolina State Department of Social Services" are used or appear in any statute or law of this State, the same shall be deleted and the words "Department of Human Resources" or "Department," as appropriate, shall be inserted in lieu thereof unless otherwise provided for in the Executive Organization Act of 1973.

(4) Whenever the words "State Board for Vocational Education" or "Department for Vocational Rehabilitation" are used or appear in any statute or law of this State, the same shall be deleted and the words "Department of Human Resources" inserted in lieu thereof.

(5) Whenever the words "Director of the Division of Vocational Rehabilitation of the State Department of Public Instruction" or "Director of Vocational Rehabilitation" are used or appear in any statute or law of this State, the same shall be deleted and the words "Secretary of Human Resources" are hereby inserted in lieu thereof.

(b) In addition to the foregoing, the following amendments to the General Statutes of North Carolina is hereby made:

(1) The words "by the Department of Human Resources" are hereby inserted between the words "boarding home or institution inspected" and the words "and licensed by" on line 10 of G.S. 14-320.

(2) The word "Policies" shall be deleted and the words "rules and regulations" shall be inserted in lieu thereof on line 3 of G.S. 108-23.

(3) The words "the State Board directs," are hereby deleted and the word "appropriate" is hereby inserted in lieu thereof on line 5 of G.S. 108-52.

(4) The words "State Board of Public Welfare" are hereby deleted and the words "Social Services Commission or the Secretary of Human Resources or an employee thereof acting for the Department in an official capacity in the placing or adoption of juvenile delinquents or dependents" are inserted in lieu thereof on line 3 of G.S. 110-55.

(5) The words "The State Board of Health, the Department of Mental Health" are hereby deleted from line 11 of G.S. 153-52(a).

(c) The following sections of the General Statutes of North Carolina are hereby repealed: G.S. 108-1, G.S. 108-2, G.S. 108-3, G.S. 108-4, G.S. 108-5, G.S. 108-6, G.S. 108-61.1, and G.S. 148-9.

Sec. 139. *Commission for the Blind; creation, powers, and duties.*—There is hereby re-created the Commission for the Blind of the Department of Human Resources with the power and duty to adopt rules and regulations to be followed in the conduct of the State's rehabilitative programs for the blind with the power and duty to adopt, amend and rescind rules and regulations under and

not inconsistent with the laws of the State necessary to carry out the provisions and purposes of this Article.

(a) The Commission for the Blind is authorized and empowered to adopt such rules and regulations that may be necessary and desirable for the programs administered by the Department of Human Resources as provided in Chapter 111 of the General Statutes of North Carolina.

(b) The Commission for the Blind shall have the power and duty to establish standards and adopt rules and regulations for aid to the needy blind as contained in Chapter 111 of the General Statutes of North Carolina.

(c) The Commission is authorized and empowered to adopt such rules and regulations, not inconsistent with the laws of this State, as may be required by the federal government for grants-in-aid for rehabilitative purposes for the blind which may be made available for the State by the federal government. This section is to be liberally construed in order that the State and its citizens may benefit from such grants-in-aid.

(d) The Commission for the Blind shall adopt rules and regulations consistent with the provisions of this Chapter. All rules and regulations not inconsistent with the provisions of this Chapter heretofore adopted by the North Carolina State Commission for the Blind shall remain in full force and effect unless and until repealed or superseded by action of the re-created Commission for the Blind. All rules and regulations adopted by the Commission shall be enforced by the Department of Human Resources.

Sec. 140. Commission for the Blind; members, selection, quorum, compensation.—The Commission for the Blind of the Department of Human Resources shall consist of eleven members appointed by the Governor. The initial members of the Commission shall include the members of the existing Commission for the Blind who shall serve for a period equal to the remainder of their current terms on the existing Commission for the Blind, three of whose appointments expire July 2, 1974, three of whose appointments expire July 2, 1975, and three of whose appointments expire July 2, 1977. Four of the successor appointees must meet the following qualifications: two individuals must be licensed physicians whose practice is limited to ophthalmology appointed by the Governor from recommendations submitted by the North Carolina Medical Society and two must be optometrists appointed by the Governor from recommendations submitted by the North Carolina Optometric Society. Thereafter, these two classes of individuals must have continuous representation on the Commission. Of the initial appointments, in addition to the members of the existing Commission for the Blind, two members appointed by the Governor must be visually handicapped to the extent of being legally blind. To achieve staggered terms of the members who must be visually handicapped, one appointment shall be for a term of six years, one shall be for a term of four years. Thereafter, at least two individuals who are visually handicapped to the extent of being legally blind must have continuous representation on the Commission for the Blind. At the end of the respective terms of office of the initial members of the Commission, their successors shall be appointed for terms of six years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Commission from office for misfeasance, malfeasance, or nonfeasance in accordance with the provisions of Section 13 of the Executive Organization Act of 1973.

The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Commission shall constitute a quorum for the transaction of business.

All clerical and other services required by the Commission shall be supplied by the Secretary of Human Resources.

Sec. 141. *Regular and special meetings.*—The Commission for the Blind shall meet at least once in each quarter and may hold special meetings at any time and place within the State at the call of the chairman or upon the written request of at least five members.

Sec. 142. *Officers of the Commission for the Blind.*—The Commission for the Blind shall have a chairman and a vice-chairman. The chairman shall be designated by the Governor from among the members of the Commission to serve as chairman at his pleasure. The vice-chairman shall be elected by and from the members of the Commission and shall serve for a term of two years or until the expiration of his regularly appointed term.

Sec. 143. *Commission for the Blind; conforming changes.*—(a) Whenever the words “North Carolina State Commission for the Blind” are used or appear in any statute or law of this State, the same shall be deleted and the words “Department of Human Resources” or “Department,” as appropriate, shall be inserted in lieu thereof, unless otherwise provided for in the Executive Organization Act of 1973. With the exception that in the following references the words “North Carolina State Commission for the Blind” shall be deleted and the words “Commission for the Blind” shall be inserted in lieu thereof: G.S. 111-6, line 20; G.S. 111-6.1, line 1 of paragraph 2; G.S. 111-12.6, line 12; G.S. 111-13, line 5; G.S. 111-14, line 23; G.S. 111-16, lines 2 and 4 of paragraph 3 and lines 2, 4, and 7 of paragraph 4; G.S. 111-17, line 4; G.S. 111-19, line 6; G.S. 111-28, line 1 of paragraph 2; and G.S. 111-29(1), line 11.

(b) In addition to the foregoing, the following amendments to the General Statutes of North Carolina are hereby made:

(1) The words “State Commission for the Blind” are hereby deleted and the words “Department of Human Resources as Blind enterprises” are inserted in lieu thereof on line 1 of G.S. 66-58(c)(4).

(2) The word “board” is hereby deleted and the word “Department” is inserted in lieu thereof on line 14 of G.S. 111-6.

(3) G.S. 111-6.1 is hereby amended by rewriting the second paragraph thereof to read: “The Commission shall make all rules and regulations necessary for this purpose and the Department is hereby authorized to enter into any agreement or contract; to purchase or lease property, both real and personal, accept grants and gifts of whatever nature, and to do all other things necessary to carry out the intent and purposes of such a rehabilitation center.”

(4) G.S. 111-12.5 shall be rewritten to read, “Funds now held by the Bureau of Employment of the North Carolina State Commission for the Blind or its successor organization not exceeding one hundred thousand dollars (\$100,000) shall be retained by the Department of Human Resources as a reserve and operating capital fund to be expended by the Department of Human

Resources for its lawful purposes and objectives in accordance with this Chapter.”

(5) Rewrite the last two paragraphs of G.S. 111-16 beginning line 34 which shall read, “In all cases where an appeal shall have been taken by the applicant, the Commission for the Blind shall carefully examine such award or decision, as the case may be, and shall in their discretion, approve, increase, allow or disallow any award so made. Immediately thereafter they shall notify the board of county commissioners and the applicant of such action; and if the award made by the board of county commissioners is changed, notice thereof shall be given by mail to the applicant and the board of county commissioners, giving the extent and manner in which any award has been changed.

If, in the absence of any appeal by the applicant, the North Carolina Department of Human Resources shall make any determination increasing or decreasing the award allowing or disallowing the same, not inconsistent with the rules and regulations promulgated by the Commission for the Blind, the applicant or board of county commissioners shall have the right, within ten days from notice thereof, to have such order reviewed by the Commission for the Blind. The procedure in such cases shall be as provided in the section on appeals to the Commission by the applicant.”

(6) The words “executive director of the North Carolina State Commission for the Blind” are hereby deleted and the words “Secretary of Human Resources” are inserted in lieu thereof on line 9 of G.S. 111-18.

(7) The words “Bureau of Employment for the Blind Division” are hereby deleted from G.S. 111-27.1, line 16.

(8) The words “State Commission for the Blind, Bureau of Employment for the Blind Division” are hereby deleted and the words “Department of Human Resources” are inserted in lieu thereof on line 13 of G.S. 126-5(b) and lines 2, 6, and 9 of G.S. 135-16.1.

(c) The following sections of the General Statutes of North Carolina are hereby repealed: G.S. 111-1, G.S. 111-2, G.S. 111-3, G.S. 111-9, G.S. 111-10, G.S. 111-12, G.S. 111-12.4, and G.S. 111-34.

Sec. 144. Professional Advisory Committee; creation, powers, and duties.—There is hereby re-created the Professional Advisory Committee of the Department of Human Resources. The Professional Advisory Committee shall advise the Commission for the Blind on matters concerning or pertaining to the procurement, utilization, and rendering of professional services to the beneficiaries of the Commission’s aid and services.

Sec. 145. Professional Advisory Committee; members, selection, quorum, compensation.—The Professional Advisory Committee of the Department of Human Resources shall consist of six members appointed by the Governor, three of whom shall be licensed physicians whose practice is limited to ophthalmology nominated by the North Carolina Medical Society, and three optometrists nominated by the North Carolina State Optometric Society.

The initial members of the Committee shall be the members of the Professional Advisory Committee who shall serve for a period equal to the remainder of their current terms on the Professional Advisory Committee, two of which expire July 2, 1973, two of which expire July 2, 1974, and two of which expire July 2, 1975. At the end of the respective terms of office of the initial members of the Committee, the appointment of their successors shall be for terms of three years and until their successors are appointed and qualify. Any

appointment to fill a vacancy on the Committee created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Committee from office in accordance with the provisions of Section 16 of the Executive Organization Act of 1973.

The Governor shall designate a member of the Committee to serve as chairman at his pleasure.

Members of the Committee shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Committee shall constitute a quorum for the transaction of business.

All clerical and other services required by the Committee shall be supplied by the Secretary of Human Resources.

Sec. 146. *Blind Advisory Committee; creation, powers, and duties.*—There is hereby re-created the Blind Advisory Committee of the Department of Human Resources. The Blind Advisory Committee shall advise the Commission for the Blind on the needs of the citizens of the State who are visually handicapped to the extent of being legally blind.

Sec. 147. *Blind Advisory Committee; members, selection, quorum, compensation.*—The Blind Advisory Committee of the Department of Human Resources shall consist of six members appointed by the Governor, all of whom shall be visually handicapped to the extent of being legally blind.

The initial members of the Committee shall be the members of the Blind Advisory Committee who shall serve for a period equal to the remainder of their current terms on the Blind Advisory Committee, two of which expire July 2, 1973, two of which expire July 2, 1974, and two of which expire July 2, 1975. At the end of the respective terms of office of the initial members of the Committee, the appointment of their successors shall be for terms of three years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Committee created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Committee from office in accordance with the provisions of Section 16 of the Executive Organization Act of 1973.

The Governor shall designate a member of the Committee to serve as chairman at his pleasure.

Members of the Committee shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Committee shall constitute a quorum for the transaction of business.

All clerical and other services required by the Committee shall be supplied by the Secretary of Human Resources.

Sec. 148. *Commission for Medical Facility Services and Licensure; creation, powers and duties.*—There is hereby created the Commission for Medical Facility Services and Licensure of the Department of Human Resources with the power and duty to promulgate rules and regulations to be followed in the construction and maintenance of public and private hospitals, medical centers, and related facilities with the power and duty to adopt, amend and

rescind rules and regulations under and not inconsistent with the laws of the State necessary to carry out the provisions and purposes of this Article.

(a) The Commission for Medical Facility Services and Licensure has the duty to adopt statewide plans for the construction and maintenance of hospitals, medical centers, and related facilities, or such other as may be found desirable and necessary in order to meet the requirements and receive the benefits of any federal legislation with regard thereto.

(b) The Commission is authorized to adopt such rules and regulations as may be necessary to carry out the intent and purposes of Article 13 of Chapter 131 of the General Statutes of North Carolina.

(c) The Commission may adopt such reasonable and necessary standards with reference thereto as may be proper to cooperate fully with the Surgeon General or other agencies or departments of the United States and the use of funds provided by the federal government as contained and referenced in Article 13 of Chapter 131 of the General Statutes of North Carolina.

(d) The Commission shall have the power and duty to approve projects in the amounts of grants-in-aid from funds supplied by the federal and state governments for the planning and construction of hospitals and other related medical facilities according to the provisions of Article 13 of Chapter 131 of the General Statutes of North Carolina.

(e) The Commission shall have the power and duty to adopt rules and regulations with regard to the awarding of loans and scholarships to students in accordance with the provisions of Article 13 of Chapter 131 of the General Statutes of North Carolina.

(f) The Commission has the duty to adopt rules and regulations and standards with respect to the different types of hospitals to be licensed under the provisions of Article 13A of Chapter 131 of the General Statutes of North Carolina.

(g) The Commission is authorized and empowered to adopt such rules and regulations, not inconsistent with the laws of this State, as may be required by the federal government for grants-in-aid for medical facility services and licensure which may be made available to the State by the federal government. This section is to be liberally construed in order that the State and its citizens may benefit from such grants-in-aid.

(h) The Commission shall adopt such rules and regulations, consistent with the provisions of this Chapter. All rules and regulations not inconsistent with the provisions of this Chapter heretofore adopted by the North Carolina Medical Care Commission shall remain in full force and effect unless and until repealed or superseded by action of the Commission for Medical Facility Services and Licensure. All rules and regulations adopted by the Commission shall be enforced by the Department of Human Resources.

Sec. 149. *Commission for Medical Facility Services and Licensure; members, selection, quorum, compensation.*—The Commission for Medical Facility Services and Licensure of the Department of Human Resources shall consist of seventeen members appointed by the Governor. Three of the members appointed by the Governor shall be nominated by the North Carolina Medical Society, one member shall be nominated by the North Carolina Nurses Association, one member shall be nominated by the North Carolina Pharmaceutical Association, one member nominated by the Duke Foundation and one member nominated by the North Carolina Hospital Association. The

remaining ten members of the Commission for Medical Facility Services and Licensure shall be appointed by the Governor and selected so as to fairly represent agriculture, industry, labor, and other interest groups in North Carolina. One such member appointed by the Governor shall be a dentist licensed to practice in North Carolina. The initial members of the Commission shall be eighteen members of the North Carolina Medical Care Commission who shall serve for a period equal to the remainder of their current terms on the North Carolina Medical Care Commission, six of whose appointments expire June 30, 1973, four of whose appointments expire June 30, 1974, four of whose appointments expire June 30, 1975, and four of whose appointments expire June 30, 1976. To achieve the required seventeen members the Governor shall appoint three members to the Commission upon the expiration of four members initial terms on June 30, 1973. At the end of the respective terms of office of the initial members of the Commission, their successors shall be appointed for terms of four years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Commission from office for misfeasance, malfeasance or nonfeasance in accordance with the provisions of Section 13 of the Executive Organization Act of 1973.

Vacancies on said Commission among the membership nominated by a society, association, or foundation as herein above provided shall be filled by the Executive Committee or other authorized agent of said society, association or foundation until the next meeting of the society, association or foundation at which time the society, association or foundation shall nominate a member to fill the vacancy for the unexpired term.

The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Commission shall constitute a quorum for the transaction of business.

All clerical and other services required by the Commission shall be supplied by the Secretary of Human Resources.

Sec. 150. *Regular and special meetings.*—The Commission for Medical Facility Services and Licensure shall meet at least once in each quarter and may hold special meetings at any time and place within the State at the call of the chairman or upon the written request of at least nine members.

Sec. 151. *Officers of the Commission for Medical Facility Services and Licensure.*—The Commission for Medical Facility Services and Licensure shall have a chairman and vice-chairman. The chairman shall be designated by the Governor from among the members of the Commission to serve as chairman at his pleasure. The vice-chairman shall be elected by and from the members of the Commission and shall serve for a term of two years or until the expiration of his regularly appointed term.

Sec. 152. *Conforming changes.*—(a) Whenever the words "North Carolina Medical Care Commission" are used or appear in any statute or law of this State, the same shall be deleted and the words "Department of Human Resources" or "Department," as appropriate, shall be inserted in lieu thereof, unless otherwise provided for in the Executive Organization Act of 1973. With

the exception that in the following references the words "North Carolina Medical Care Commission" and "Commission," when referring to the North Carolina Medical Care Commission, shall be deleted and the words "Commission For Medical Facility Services and Licensure" or "Commission," as appropriate, shall be inserted in lieu thereof: G.S. 131-120(b), line 20; G.S. 131-120(e), lines 1, 9, and 11; G.S. 131-121, lines 10, 15, and 21; G.S. 131-124, line 7; G.S. 131-121.1(1), line 1; G.S. 131-126.5, lines 4 and 11; G.S. 131-126.6, lines 6, 8, and 13 of paragraph 2, and line 2 of paragraph 3; G.S. 131-126.9, lines 5 and 7; G.S. 131-126.14, all references on lines 2, 6, 7, 9, 11, 13, and 14, G.S. 131-126.25(a), line 10; G.S. 131-126.25(b), lines 7 and 9 of paragraph 1, lines 4 and 5 of paragraph 2; G.S. 131-126.31, line 4 of paragraph 1 and line 1 of paragraph 2; and G.S. 131-126.32, lines 2 and 13 of paragraph 1, line 2 of paragraph 2, line 1 of paragraph 3, and line 1 of paragraph 4.

(b) In addition to the foregoing, the following amendments to the General Statutes of North Carolina are hereby made:

(1) The first sentence of G.S. 131-120(b) shall be rewritten to read, "The Department of Human Resources is hereby authorized and empowered to act as the agency of the State of North Carolina for the purpose of setting up and administering any statewide plan in accordance with standards adopted by the Commission for Medical Facility Services and Licensure for the construction and maintenance of hospitals, public health centers and related facilities and to receive and administer any funds which may be provided by the General Assembly of North Carolina and by the Congress of the United States for such purpose."

(2) The words "with the advice of the State Advisory Council hereinafter provided," shall be deleted from lines 6 and 7 of G.S. 131-120(b).

(3) The words " : Provided, that hospitals now in the course of construction and approved by the North Carolina Medical Care Commission and the appropriate federal authority shall be entitled to receive financial assistance on the same basis as any hospital of the same classification and type that may be hereafter constructed and approved by the North Carolina Medical Care Commission and the appropriate federal authority" shall be deleted from lines 17 to 22 of G.S. 131-120(e).

(4) The words "as it may promulgate" shall be deleted and the words "as the Commission for Medical Facility Services and Licensure may adopt" shall be inserted in lieu thereof on line 6 of G.S. 131-121.

(5) The words "with the advice of the Hospital Advisory Council" shall be deleted from line 2 of paragraph 3 of G.S. 131-126.6.

(6) G.S. 131-126.7 shall be rewritten to read as follows: "The Commission shall adopt, amend and promulgate and the Department shall so enforce such rules, regulations and standards with respect to the different types of hospitals to be licensed hereunder as may be designed to further the accomplishment of the Article.

(7) The word "Commission" shall be deleted and the words "Commission for Medical Facility Services and Licensure and the Department of Human Resources" shall be inserted in lieu thereof on line 1 of G.S. 131-126.12.

(c) The following sections of the General Statutes of North Carolina are hereby repealed: G.S. 131-117; G.S. 131-118; G.S. 131-126.10; G.S. 131-126.11; G.S. 131-126.13; and G.S. 131-126.17.

Sec. 153. *The Council for Institutional Boards; creation, powers and duties.*—There is hereby created the Council for Institutional Boards of the Department of Human Resources. The Council for Institutional Boards shall have the following functions and duties:

(1) to investigate the development of uniform policies relating to the operation and management of all of the institutions represented on the Council and make recommendations to the Secretary of Human Resources concerning the implementation of those policies;

(2) to provide a clearinghouse function to facilitate inter-institutional communication for the purpose of exchanging information that might be helpful to other council member institutions;

(3) to provide representation for the institutions on the Board of Human Resources; and

(4) to consider and advise the Secretary of Human Resources upon any matter the Secretary may refer to it.

Sec. 154. *The Council for Institutional Boards; members, selection, quorum, compensation.*—The Council for Institutional Boards of the Department of Human Resources shall consist of the chairmen respectively of the following bodies: (1) The Board of Directors of the North Carolina Sanatoriums for the Treatment of Tuberculosis; (2) the Board of Directors of the North Carolina Orthopedic Hospital; (3) the Board of Directors of the Lenox Baker Cerebral Palsy and Crippled Children's Hospital of North Carolina; (4) the Board of Directors of the Governor Morehead School; (5) the Board of Directors of the North Carolina Schools for the Deaf; (6) and the Board of Directors of the Confederate Women's Home. Members shall serve on the Council for the same terms they serve as chairmen of their respective institutional boards.

A majority of the members of the Council shall constitute a quorum for the transaction of business.

Members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

Sec. 155. *Officers of the Council for Institutional Boards.*—The Council for Institutional Boards shall elect from its membership a chairman and such other officers as it deems necessary. The chairman shall serve for a period of one year unless his term as chairman of one of the representative institutional boards is terminated sooner, in which case, the Council shall elect a successor. The chairman may succeed himself at the pleasure of the Council.

Sec. 156. *Regular and special meetings.*—The Council for Institutional Boards shall meet at least semi-annually and may hold special meetings at any time and place within the State at the call of the chairman or upon the written request of at least a majority of the members.

All clerical and other services required by the Council shall be supplied by the Secretary of Human Resources.

Sec. 157. *Boards of Directors of Institutions; creation, powers and duties.*—(a) There are hereby created the following Boards of Directors of Institutions: (1) the Board of Directors of the North Carolina Sanatoriums for the Treatment of Tuberculosis; (2) the Board of Directors of the North Carolina Orthopedic Hospital; (3) the Board of Directors of the Lenox Baker Cerebral Palsy and Crippled Children's Hospital of North Carolina; (4) the Board of Directors of the Governor Morehead School; (5) the Board of

Directors of the North Carolina Schools for the Deaf; and (6) the Board of Directors of the Confederate Women's Home with the power and duty to adopt rules and regulations to be followed in the conduct of their respective institutions.

(b) Each Board of Directors hereinabove created is authorized and empowered to establish standards and adopt rules and regulations:

(1) for the professional care of persons admitted to institutions established in accordance with the General Statutes under their authority, including the authority to establish rules and regulations not contrary to law governing the admission of persons to any state institution under its jurisdiction which is now or may hereafter be established; and

(2) to make the institutions under their control as nearly self-supporting as shall be consistent with the purposes of their creation.

(c) The Board of Directors of each institution is authorized and empowered to adopt such rules and regulations, not inconsistent with the laws of this State, as may be required by the federal government for grants-in-aid to such an institution which may be made available to the State by the federal government. This section is to be liberally construed in order that the State and its citizens may benefit from such grants-in-aid.

Sec. 158. *Boards of Directors of Institutions; members, selection, quorum, compensation.*—The Board of Directors of the North Carolina Sanatoriums for the Treatment of Tuberculosis of the Department of Human Resources shall consist of twelve members appointed by the Governor for terms of six years. The Board of Directors of the Lenox Baker Cerebral Palsy and Crippled Children's Hospital of North Carolina of the Department of Human Resources shall consist of nine members appointed by the Governor for terms of six years. The Board of Directors of the North Carolina Orthopedic Hospital of the Department of Human Resources shall consist of nine members appointed by the Governor for terms of six years. The Board of Directors of the Governor Morehead School of the Department of Human Resources shall consist of eleven members appointed by the Governor for terms of six years. The Board of Directors of the North Carolina Schools for the Deaf of the Department of Human Resources shall consist of eleven members appointed by the Governor for terms of four years. The Board of Directors of the Confederate Women's Home of the Department of Human Resources shall consist of seven members appointed by the Governor for terms of two years. The initial members of each of the aforementioned Boards of Directors shall be the members of the previously existing Board of Directors for each institution. The members of the various Boards of Directors shall serve for a period equal to the remainder of their current terms on their respective Boards, which are as follows: The Board of Directors of Tuberculosis Sanatoriums, four of whose appointments expire April 29, 1973, four of whose appointments expire April 29, 1975, and four of whose appointments expire April 29, 1977; the Board of Directors of the North Carolina Orthopedic Hospital two of whose appointments expire April 4, 1973, four of whose appointments expire April 4, 1975, and three of whose appointments expire April 4, 1977; The Board of Directors of the Lenox Baker Cerebral Palsy and Crippled Children's Hospital of North Carolina three of whose appointments expire July 10, 1973, three of whose appointments expire July 10, 1975, and three of whose appointments expire July 10, 1977; the Board of Directors of the Governor Morehead School four of whose appointments

expire May 1, 1973, three of whose appointments expire May 1, 1975, and four of whose appointments expire May 1, 1977; the Board of Directors of the North Carolina Schools for the Deaf all of whose appointments expire July 17, 1973; and the Board of Directors of the Confederate Women's Home all of whose appointments expire June 30, 1973. At the end of the respective terms of office of the initial members of each Board, their successors shall be appointed for terms as hereinabove delineated and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Board of Directors created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of a Board of Directors from office for misfeasance, malfeasance or nonfeasance according to the provisions of Section 13 of the Executive Organization Act of 1973.

The members of each Board of Directors shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of a Board of Directors shall constitute a quorum for the transaction of business.

All clerical and other services required by a Board of Directors shall be supplied by the Secretary of Human Resources.

Sec. 159. *Regular and special meetings.*—Each Board of Directors hereinabove created shall meet at least once in each quarter and may hold special meetings at any time and place at the call of the chairman or upon the written request of at least a majority of its members.

Sec. 160. *Officers of the Board of Directors.*—Each Board of Directors shall have a chairman and a vice-chairman. The chairman of each Board of Directors shall be designated by the Governor from among the members of the Board of Directors to serve as chairman at his pleasure. The vice-chairman shall be elected by and from the members of each Board and shall serve for a term of two years or until the expiration of his regularly appointed term.

Sec. 161. *Conforming changes; Board of Directors of Tuberculosis Sanatoriums.*—(a) (1) Whenever the words "Bureau of Tuberculosis" or "Bureau," when referring to the Bureau of Tuberculosis, are used or appear in any statute or law of this State, the same shall be deleted and the words "Department of Human Resources" or "Department," as appropriate, shall be inserted in lieu thereof, unless otherwise provided for in the Executive Organization Act of 1973.

(2) Whenever the words "Board of Directors of the North Carolina Sanatorium for the Treatment of Tuberculosis," "Board of Directors of the Western North Carolina Sanatorium for the Treatment of Tuberculosis," "Board of Directors of the Eastern North Carolina Sanatorium," "Board of Directors," or "Board" or "Directors" when referring to any state-supported sanatorium for the treatment of tuberculosis are used or appear in any statute or law of this State, the same shall be deleted and the words "Department of Human Resources" or "Department," as appropriate, shall be inserted in lieu thereof, unless otherwise provided for in the Executive Organization Act of 1973. With the exception that in the following references the words "Board of Directors of the North Carolina Sanatorium for the Treatment of Tuberculosis," "Board of Directors of the Western North Carolina Sanatorium for the Treatment of Tuberculosis," "Board of Directors of the Eastern North

Carolina Sanatorium," or "Board of Directors" or "Board" or "Directors" when referring to any state-supported sanatorium for the treatment of tuberculosis shall be deleted and the words "Board of Directors of Tuberculosis Sanatoriums" or "Board of Directors" or "Board," as appropriate, shall be inserted in lieu thereof: G.S. 131-54, lines 1 and 8; G.S. 131-85, line 5.

(b) In addition to the foregoing, the following amendment shall be made to the General Statutes of North Carolina: The words "directors shall equip, operate and maintain a bureau for tuberculosis, located in their office in Raleigh, to which bureau the reports of cases of tuberculosis, as hereinafter provided, shall be made; and the" shall be deleted beginning on line 1 of G.S. 131-55.

(c) The following sections of the General Statutes of North Carolina are hereby repealed: G.S. 131-52; G.S. 131-53; G.S. 131-59; G.S. 131-62; G.S. 131-63; G.S. 131-64; G.S. 131-65; G.S. 131-66; G.S. 131-67; G.S. 131-68; G.S. 131-69; G.S. 131-70; G.S. 131-71; G.S. 131-75; G.S. 131-78; G.S. 131-79; G.S. 131-82.

Sec. 162. *Conforming changes; Board of Directors of the Lenox Baker Cerebral Palsy and Crippled Children's Hospital of North Carolina.*—(a) Whenever the words "Board of Directors of the North Carolina Cerebral Palsy Hospital," "Directors of the Cerebral Palsy Hospital," "Board of Directors," or "Board" when referring to the Board of Directors of the North Carolina Cerebral Palsy Hospital are used or appear in any statute or law of this State, the same shall be deleted and the words "Department of Human Resources" or "Department," as appropriate, shall be inserted in lieu thereof, unless otherwise provided for in the Executive Organization Act of 1973. With the exception, that in the following references the words "Board of Directors of the Lenox Baker Cerebral Palsy and Crippled Children's Hospital of North Carolina" or "Board of Directors" or "Board" when referring to the Lenox Baker Cerebral Palsy and Crippled Children's Hospital shall be retained and shall refer to the "Board of Directors of the Lenox Baker Cerebral Palsy and Crippled Children's Hospital of North Carolina" re-created by the Executive Organization Act of 1973: G.S. 131-131, line 9; G.S. 131-133, lines 6 and 8; G.S. 131-134, line 1.

(b) In addition to the foregoing, the following change shall be made: The words "and the Board of Directors" shall be inserted in line 5 of G.S. 131-131 between the words "thereof;" and the words "may make such rules and regulations."

(c) The following sections of the General Statutes of North Carolina are hereby repealed: G.S. 131-128; G.S. 131-130; G.S. 131-136.

Sec. 163. *Conforming changes; Board of Directors of the North Carolina Orthopedic Hospital.*—(a) Whenever the words "Board of Trustees of the North Carolina Orthopedic Hospital" or "Board of Trustees," or "Trustees of the North Carolina Orthopedic Hospital" when referring to the North Carolina Orthopedic Hospital are used or appear in any statute or law of this State, the same shall be deleted and the words "Department of Human Resources" or "Department," as appropriate, shall be inserted in lieu thereof, unless otherwise provided for in the Executive Organization Act of 1973.

(b) The following section of the General Statutes of North Carolina is hereby amended:

(1) G.S. 131-3 shall be rewritten to read as follows: "There is hereby created and established in the North Carolina Orthopedic Hospital at Gastonia a

school for patients which shall be operated for a period of twelve months in each year, or such period during each year as the Department of Human Resources may deem advisable, under the direction and supervision of the County Board of Education of Gaston County.

A principal and the necessary number of teachers in said school shall be selected by the Department upon the recommendation of the County Superintendent of Public Instruction of Gaston County, which teachers shall hold certificates according to standards prescribed by the State Board of Education for teachers in the public schools of the State."

(c) The following section of the General Statutes of North Carolina is hereby repealed: G.S. 131-1.

Sec. 164. *Conforming changes; Board of Directors of the Governor Morehead School.*—(a) Whenever the words "Board of Directors of the Governor Morehead School" or "Board of Directors" or "Board," when referring to the Board of Directors of the Governor Morehead School are used or appear in any statute or law of this State, the same shall be deleted and the words "Department of Human Resources" or "Department," as appropriate, shall be inserted in lieu thereof, unless otherwise provided for in the Executive Organization Act of 1973.

(b) The following sections of the General Statutes of North Carolina are hereby repealed: G.S. 115-322; G.S. 115-323; G.S. 115-324; G.S. 115-329; G.S. 115-331; G.S. 115-332; G.S. 115-333.

Sec. 165. *Conforming changes; Board of Directors of the North Carolina Schools for the Deaf.*—(a) Whenever the words "Board of Directors of the North Carolina Schools for the Deaf" or "Board of Directors" or "Board," when referring to the Board of Directors for the North Carolina Schools for the Deaf are used or appear in any statute or law of this State, the same shall be deleted and the words "Department of Human Resources" or "Department," as appropriate, shall be inserted in lieu thereof, unless otherwise provided for in the Executive Organization Act of 1973.

(b) In addition to the foregoing, the following amendments to the General Statutes of North Carolina shall be made:

(1) The first sentence of G.S. 115-340 shall be rewritten to read "The Department of Human Resources shall according to such reasonable regulations as the Board of Directors may prescribe, on application, receive into the School for the purposes of education all deaf children resident of the State not of confirmed immoral character, not imbecile or unsound of mind or incapacitated by physical infirmity for useful instruction, who are between the ages of six and twenty-one years; provided, that the Department of Human Resources may admit students under the age of six years when in its judgment, such admission will be in the best interests of the applicant and the facilities of the School permit such admission."

(2) G.S. 115-342 shall be rewritten to read as follows: "The Department is authorized to make such agreements with the governing authority of any municipality, or of any county, as may be mutually agreed upon, to promote convenience and economy for joint water supply, lighted areas, use of sewage facilities, or any other utilities or facilities that may be necessary and as may be agreed upon."

(3) The third sentence of G.S. 115-340, beginning on line 10, shall be rewritten to read as follows: "The Department may fix charges and the Board of

Directors may prescribe rules whereby nonresident deaf children may be admitted, but in no event shall the admission of nonresidents in anyway prevent the attendance of any eligible deaf child, resident of North Carolina."

(c) The following sections of the General Statutes of North Carolina are hereby repealed: G.S. 115-337; G.S. 115-338; and G.S. 115-339.

Sec. 166. *Conforming changes; Board of Directors of the Confederate Women's Home.*—(a) Whenever the words "Board of Directors of the Confederate Women's Home" or "Board of Directors" or "Board," when referring to the Board of Directors of the Confederate Women's Home are used or appear in any statute or law of this State, the same shall be deleted and the words "Department of Human Resources" or "Department," as appropriate, shall be inserted in lieu thereof, unless otherwise provided for in the Executive Organization Act of 1973.

(b) The following sections of the General Statutes of North Carolina are hereby repealed: G.S. 112-2; G.S. 112-4; G.S. 112-6.

Sec. 167. *Council on Developmental Disabilities; creation, powers, and duties.*—There is hereby created the Council on Developmental Disabilities of the Department of Human Resources. The Council on Developmental Disabilities shall have the following functions and duties:

(1) to provide advice to the Secretary of Human Resources as will facilitate the implementation of the State plan and the fulfillment of the requirements of Public Law 91-517, the Developmental Disabilities and Facilities Construction Amendment of 1970;

(2) to study ways and means of promoting public understanding of developmental disabilities; to consider the need for new State programs and laws in the field of developmental disabilities; and to make recommendations to and advise the Secretary of Human Resources on the matters relating to developmental disabilities;

(3) to advise in the preparation of a plan describing the quality, extent and scope of services being provided, or to be provided, to persons with developmental disabilities in North Carolina;

(4) to examine the programs of all State agencies which provide services for persons with developmental disabilities and to make recommendations to the Secretary of Human Resources for coordination of programs to prevent duplication and overlapping of such services; and

(5) the Council shall advise the Secretary of Human Resources upon any matter the Secretary may refer to it.

Sec. 168. *Definitions.*—The following definitions apply to this Chapter:

(1) The term "developmental disabilities," as it is used in this Article, means such disabilities as are attributable to mental retardation, cerebral palsy, epilepsy, physically disabled, or other neurological conditions of individuals which are found to be closely related to mental retardation or which require treatment similar to that required for mentally retarded individuals, which disability originates before such individual attains age eighteen, which has continued or can be expected to continue indefinitely, and which constitutes a substantial handicap to such individual.

(2) The term "services for persons with developmental disabilities," as it is used in this Article, means specialized services or special adaptations of generic services directed toward the alleviation of a developmental disability or toward the social, personal, physical, or economic rehabilitation of an individual with

such a disability, and such term includes diagnosis, evaluation, treatment, personal care, day care, domiciliary care, special living arrangements, training, education, sheltered employment, recreation, counseling of the individual with such a disability and of his family, protective and other social and socio-legal services, information and referral services, follow-along services, and transportation services necessary to assure delivery of services to persons with developmental disabilities.

Sec. 169. *Council on Developmental Disabilities; members, selection, quorum, compensation.*—The Council on Developmental Disabilities of the Department of Human Resources shall consist of twenty-one members appointed by the Governor. The composition of the Council shall be as follows:

(a) seven members from the General Assembly and State government agencies as follows: two persons who are members of the Senate, two persons who are members of the House of Representatives, one representative of the Department of Public Education, one representative of the Department of Social Rehabilitation and Control, and one representative of the Department of Administration;

(b) eight members designated as consumers of services or representatives of consumers of services for the developmentally handicapped, of which at least three members shall be designated as representatives of advocate organizations as follows: one member from the North Carolina Association for Retarded Children, one member from the United Cerebral Palsy of North Carolina, and one member from the North Carolina Chapter of the Epilepsy Foundation of America; and

(c) six members at large, who by their interests and efforts have helped provide or may help provide improved services for those who are developmentally disabled, three of whom shall initially be appointed for a term of two years.

The initial members of the Council shall include the appointed members of the Council on Mental Retardation and Developmental Disabilities who shall serve for a period equal to the remainder of their current terms on the Council on Mental Retardation and Developmental Disabilities four of whose terms expire June 30, 1973, four of whose terms expire June 30, 1974, two of whose terms expire June 30, 1975, and three of whose terms expire June 30, 1976. At the end of the respective terms of office of the initial members of the Council, the appointments of all members, with the exception of those from the General Assembly and State agencies shall be for terms of four years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Council created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Council from office in accordance with the provisions of Section 16 of the Executive Organization Act of 1973.

The Governor shall designate one member of the Council to serve as chairman at his pleasure.

Members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Council shall constitute a quorum for the transaction of business.

All clerical and other services required by the Council shall be supplied by the Secretary of Human Resources.

Sec. 170. *Conforming changes.*—(a) Whenever the words “Council on Developmental Disabilities” or the words “Council on Mental Retardation and Developmental Disabilities” are used or appear in any statute or law of this State, the same shall be deleted and the words “Department of Human Resources” or “Department”, as appropriate, shall be inserted in lieu thereof, unless otherwise provided for in the Executive Organization Act of 1973.

(b) The following sections of the General Statutes of North Carolina are hereby repealed: Article 12 of Chapter 35 being G.S. 35-73, G.S. 35-74, G.S. 35-74.1, G.S. 35-75, G.S. 35-76, G.S. 35-77.

Sec. 171. *Governor's Coordinating Council on Aging; creation, powers, and duties.*—There is hereby created the Governor's Coordinating Council on Aging of the Department of Human Resources. The Governor's Coordinating Council on Aging shall have the following functions and duties:

(1) to advise in the maintenance of a continuing review of existing programs for the aging in the State of North Carolina, and periodically make recommendations to the Secretary of Human Resources for transmittal to the Governor and the General Assembly for improvements in and additions to such programs;

(2) to advise in the study, collection, maintenance, publication and other dissemination of factual data and pertinent information relative to all aspects of aging. These include the societal, economic, education, recreation and health needs and opportunities of the aging;

(3) to stimulate, inform, educate and assist local organizations, the community at large, and older people themselves about aging, about needs, resources and opportunities for the aging, and about the part they can play in improving conditions for the aging;

(4) to serve as the agency through which various public and nonpublic organizations concerned with the aged can exchange information, coordinate programs, and be helped to engage in joint endeavors;

(5) to provide advice and information to North Carolina State government departments and agencies and to nongovernmental organizations which may be considering the inauguration of services, programs, or facilities for the aging, or which can be stimulated to take such action;

(6) to encourage and assist governmental and private agencies to coordinate their efforts on behalf of the aging in order that such efforts be effective and that duplication and wasted effort be prevented or eliminated;

(7) to promote employment opportunities as well as proper and adequate recreation use of leisure for older people, including opportunities for uncompensated but satisfying volunteer work;

(8) to identify research needs, encourage research, and assist in obtaining funds for research and demonstration projects;

(9) to establish or help to establish demonstration programs of services to the aging; and

(10) to advise the Secretary of Human Resources upon any matter the Secretary may refer to it.

Sec. 172. *Governor's Coordinating Council on Aging; members, selection, quorum, compensation.*—The Governor's Coordinating Council on Aging of the Department of Human Resources shall consist of twenty-one

members appointed by the Governor. The composition of the Council shall be as follows: seven members from State government agencies as follows: one representative of the Department of Administration; one representative of the Department of Cultural Resources; the Chairman of the Employment Security Commission; the Executive Secretary of the Teachers' and State Employees' Retirement System; the Commissioner of Labor; one representative of the Department of Public Education; and one representative of the Department of Natural and Economic Resources; the Director of the School of Public Health of the University of North Carolina; the Director of Agricultural Extension Service of North Carolina State University; one representative of the collective body of the Medical Society of North Carolina; and eleven members-at-large, all of whom shall be over the age of sixty-five, four of whom shall derive their chief source of income from Social Security payments.

The initial members of the Council shall be appointed to include the appointed members of the Governor's Coordinating Council on Aging who shall serve for a period equal to the remainder of their current terms on the Governor's Coordinating Council on the Aging, two of whose appointments expire June 30, 1973, one of whose appointment expires June 30, 1974, two of whose appointments expire June 30, 1975, and two of whose appointments expire June 30, 1976. At the end of the respective terms of office of the initial members of the Council, their successors, and the at-large members shall be appointed for terms of four years and until their successors are appointed and qualify. Thereafter, the appointments of their successors, with the exception of those from State agencies, shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Council from office in accordance with the provisions of Section 16 of the Executive Organization Act of 1973.

The Governor shall designate one member of the Council as chairman to serve in such capacity at his pleasure.

Members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Council shall constitute a quorum for the transaction of business.

All clerical and other services required by the Council shall be supplied by the Secretary of Human Resources.

Sec. 173. *Conforming changes.*—The following sections of the General Statutes of North Carolina are hereby repealed: Article 29B, Chapter 143 being G.S. 143-283.11, G.S. 143-283.12, G.S. 143-283.13, G.S. 143-283.14, G.S. 143-283.15, G.S. 143-283.16, G.S. 143-283.17, G.S. 143-283.18, G.S. 143-283.19, G.S. 143-283.20, G.S. 143-283.21, G.S. 143-283.22, and G.S. 143-283.23.

Sec. 174. *Mental Health Council; creation, powers, and duties.*—There is hereby created the Mental Health Council of the Department of Human Resources. The Mental Health Council shall have the following functions and duties:

(1) to consider ways and means to promote mental health in North Carolina and to study needs for new legislation pertaining to mental health of the citizens of the State; and

(2) the Mental Health Council shall advise the Secretary of Human Resources upon any matter the Secretary may refer to it.

Sec. 175. *Mental Health Council; members, selection, quorum, compensation.*—The Mental Health Council of the Department of Human Resources shall consist of twenty-one members appointed by the Governor. The composition of the Council shall be as follows:

(a) nine members from the General Assembly and State government agencies as follows: two members of the Senate nominated by the President of the Senate, two members of the House of Representatives nominated by the Speaker of the House of Representatives, two representatives of the Department of Public Education, two representatives of the Department of Social Rehabilitation and Control, and one representative of the Department of Military and Veterans Affairs;

(b) three members designated by the respective associations to the Governor for appointment—one member representing the North Carolina Personnel and Guidance Association, one member representing the North Carolina Council on Mental Retardation and one member representing the North Carolina Council of Family Service Agencies; and

(c) nine members-at-large, who by their interest and efforts have helped provide or may help provide improved services for those who are mentally ill, mentally retarded, and inebriate.

The initial members of the Council shall be appointed for terms of four years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Council created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Council from office in accordance with the provisions of Section 16 of the Executive Organization Act of 1973.

The Governor shall designate one member of the Council to serve as chairman at his pleasure.

Members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Council shall constitute a quorum for the transaction of business.

All clerical and other services required by the Council shall be supplied by the Secretary of the Department.

Sec. 176. *Conforming changes.*—The following sections of the General Statutes of North Carolina are hereby repealed: Article 14 of Chapter 122 being sections G.S. 122-105, G.S. 122-106 and G.S. 122-107.

Sec. 177. *Governor's Council on the Employment of the Handicapped; creation, powers, and duties.*—There is hereby created the Governor's Council on the Employment of the Handicapped of the Department of Human Resources. The Governor's Council on the Employment of the Handicapped shall have the following functions and duties:

(1) to advise and assist the Department on the continuing program to promote the employment of the physically, mentally, emotionally, and otherwise handicapped citizens of North Carolina by creating statewide interest in the rehabilitation and employment of the handicapped, and by obtaining and maintaining cooperation with all public and private groups and individuals in this field;

(2) to work in close cooperation with the President's Committee on the Employment of the Physically Handicapped to carry out more effectively the

purpose of Article 29A of Chapter 143 of the General Statutes, and with State and federal agencies having responsibilities for employment and rehabilitation of the handicapped;

(3) to promote and encourage the holding of appropriate ceremonies throughout the State during the "National Employ the Physically Handicapped Week" the purpose of which ceremony shall be to enlist public support for interest in the employment of the physically handicapped; and

(4) the Council shall advise the Secretary of Human Resources upon any matter the Secretary may refer to it.

Sec. 178. *The Governor's Council on Employment of the Handicapped; members, selection, quorum, compensation.*—The Governor's Council on Employment of the Handicapped of the Department of Human Resources shall consist of twenty-one members appointed by the Governor. The composition of the Council shall be as follows: three members from State government agencies as follows: the Commissioner of Labor, the Commissioner of Insurance and the Chairman of the Employment Security Commission; and eighteen members to be appointed by the Governor.

The initial members of the Council shall include the appointed members of the Governor's Executive Committee on the Employment of the Handicapped who shall serve for a period equal to the remainder of their current terms on the Governor's Executive Committee, five of whose appointments expire June 30, 1973, five of whose appointments expire June 30, 1974, and five of whose appointments expire June 30, 1975. At the end of the respective terms of office of the initial members of the Council, the appointment of all members, with the exception of those from State agencies, shall be for terms of four years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Council created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Council from office in accordance with the provisions of Section 16 of the Executive Organization Act of 1973.

The Governor shall designate one member of the Council to serve as chairman at his pleasure.

Members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Council shall constitute a quorum for the transaction of business.

All clerical and other services required by the Council shall be supplied by the Secretary of Human Resources.

Sec. 179. *Governor's Council on Employment of the Handicapped; conforming changes.*—(a) Whenever the words "the Governor's Committee on Employment of the Handicapped" or "Governor's Committee" when referring to the Governor's Committee on the Employment of the Handicapped are used or appear in any statute or law of this State, the same shall be deleted and the words "Governor's Council on Employment of the Handicapped" or "Governor's Council" as appropriate shall be inserted in lieu thereof unless otherwise provided for in the Executive Organization Act of 1973.

(b) In addition to the foregoing the following amendments to the General Statutes of North Carolina are hereby made:

(1) G.S. 143-283.7 is amended by rewriting it to read:

"There is hereby created in the State treasury a special revolving fund to be known as 'Employment of the Handicapped Revolving Fund.' The fund shall consist of all monies received by the Department of Human Resources, or in behalf of the Department from the United States, any federal or State agency or institution, gifts, contributions, donations and requests, but not excluding any other source of revenue for the purpose of promoting the employment and rehabilitation of handicapped citizens of North Carolina. The Department of Human Resources may use said revolving fund to pay the salaries, and general expenses of the administrative office, personnel, materials, supplies, equipment, travel; provide awards, citations, scholarships, but not excluding other purposes for the promoting of the employment and rehabilitation of handicapped citizens. All expenditures from said fund shall be subject to the provisions of the Executive Budget Act.

Any monies remaining in said revolving fund at the end of any fiscal year or biennium shall not revert to the general fund or any other fund but shall continue to remain in said revolving fund to be expended for the purposes of this Article.

The Department of Human Resources shall accept, hold in trust, and authorize the use of any grant or devise of land, or any donation or bequests of money or other personal property made to the Department so long as the terms of the grant, donation, bequest or will are carried out. The Department of Human Resources may invest and reinvest any funds and money, lease, or sell any real or personal property, and invest the proceeds for the purpose of promoting the employment and rehabilitation of the handicapped unless prohibited by the terms of the grant, donation, bequest, gift, or will. If, due to circumstances, the requests of the person or persons making the grant, donation, bequest, gift, or will, cannot be carried out, the Department of Human Resources shall have the authority to use the remainder thereof for the purpose of this Article. Said funds shall be deposited in the revolving fund to carry out the provisions of this Article. Such gifts, donations, bequests, or grants shall be exempt for tax purposes. The Department shall report annually to the Governor all monies and properties received and expended by virtue of this section.

All funds and properties in the hands of the Governor's Executive Committee on the effective date of the Executive Organization Act of 1973 shall be transferred to the Department of Human Resources for use in furtherance of the purposes of this Article."

(b) The following sections are hereby repealed: G.S. 143-283.4, G.S. 143-283.5, G.S. 143-283.6, G.S. 143-283.9, and G.S. 143-283.10.

Sec. 180. *The Governor's Advocacy Council on Children and Youth; creation, powers, and duties.*—There is hereby created the Governor's Advocacy Council on Children and Youth of the Department of Human Resources. The Governor's Advocacy Council on Children and Youth shall have the following functions and duties:

- (1) to act as an advocate for youth within State and local governments;
- (2) to conduct a continuing review of existing programs of State government for children and youth;
- (3) to aid State and local agencies in the coordination of existing services and other duties specified in Section 110; and
- (4) to advise the Secretary of Human Resources any matter the Secretary may refer to it.

Sec. 181. *The Governor's Advocacy Council on Children and Youth; members, selection, quorum, compensation.*—The Governor's Advocacy Council on Children and Youth of the Department of Human Resources shall consist of seventeen members appointed by the Governor. The composition of the Council shall be as follows: two members of the Senate nominated by the President of the Senate; two members of the House of Representatives nominated by the Speaker of the House of Representatives; the State Superintendent of Public Instruction; a member nominated by the Secretary of the Department of Social Rehabilitation and Control from the area of juvenile correction; seven other adults appointed by the Governor; and four youths appointed by the Governor; of which two shall be male and two female.

In selecting the seven adult citizen members of the Commission, the Governor shall include persons who have an interest in and knowledge of children and youth, persons who work with children, and representatives of organizations concerned with problems on children and youth. In selecting the youth members, the Governor shall appoint two who are between the ages of sixteen and twenty-one years of age and two who are less than sixteen years of age at the time of their appointments.

The initial members of the Council shall be the appointed members of the Governor's Advocacy Commission for Children and Youth who shall serve for a period equal to the remainder of their current terms on the Governor's Advocacy Commission for Children and Youth. Of the adult members of the Governor's Advocacy Commission for Children and Youth, the terms of two members expire July 1, 1973; the terms of two members expire July 1, 1974; the term of one member expires July 1, 1975; and the term of two members expire July 1, 1976. Of the youth members the term of two members expires July 1, 1973 and the term of two members expire July 1, 1974. At the end of the respective terms of office of the initial members of the Council, the appointment of all members with the exception of those from State agencies, shall be for terms of two years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Council created by the resignation, death, dismissal, or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Council from office in accordance with the provisions of Section 16 of the Executive Organization Act of 1973.

The Governor shall designate a member of the Council to serve as chairman at his pleasure.

Members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Council shall constitute a quorum for the transaction of business.

All clerical and other services required by the Council shall be supplied by the Secretary of Human Resources.

Sec. 182. *The Governor's Advocacy Council on Children and Youth; conforming changes.*—(a) Whenever the words "Governor's Advocacy Commission on Children and Youth" or "Governor's Commission" or "Commission" when referring to the Governor's Advocacy Commission on Children and Youth are used or appear in any statute or law of this State, the same shall be deleted and the words "Governor's Advocacy Council on Children

and Youth” shall be inserted in lieu thereof unless otherwise provided for in the Executive Organization Act of 1973.

(b) In addition to the foregoing, the following amendment to the General Statutes of North Carolina is hereby made: The words “to the Governor and the General Assembly” shall be deleted and the words “to the Secretary of Human Resources for transmittal to the Governor” shall be inserted in lieu thereof on line 1 of G.S. 110-71(7).

(c) The following sections of the General Statutes of North Carolina are hereby repealed: G.S. 110-67; G.S. 110-68; G.S. 110-69; G.S. 110-70; G.S. 110-71(1); G.S. 110-72.

Sec. 183. *Department of Human Resources; miscellaneous conforming changes.*—(a) Whenever the words “Salt Marsh Mosquito Advisory Commission” or “Commission,” when referring to the Salt Marsh Mosquito Advisory Commission are used or appear in any statute or law of this State, the same shall be deleted and the words “Department of Human Resources” or “Department” as appropriate shall be inserted in lieu thereof unless otherwise provided for in the Executive Organization Act of 1973.

(b) In addition to the foregoing, the following amendments to the General Statutes of North Carolina are hereby made:

(1) the word “Commission” is hereby deleted and the words “Department of Human Resources” are inserted in lieu thereof on lines 1 and 3 of G.S. 130-186.2.

(2) the words “The Commission shall report annually to the Governor its findings and recommendations.” are hereby deleted from line 6 of G.S. 130-186.2.

(c) The following sections of the General Statutes of North Carolina are hereby repealed: G.S. 130-186.1; G.S. 130-186.3; G.S. 143-346; Article 13 of Chapter 143A of the General Statutes of North Carolina being G.S. 143A-130 through G.S. 143A-162.

DEPARTMENT OF REVENUE

Sec. 184. *Department of Revenue; creation.*—There is hereby re-created and reestablished a department to be known as the “Department of Revenue” with the organization, duties, functions, and powers defined in the Executive Organization Act of 1973.

Sec. 185. *Duties of the Department.*—It shall be the duty of the Department to collect and account for the State’s tax funds, to insure uniformity of administration of the tax laws and regulations, to conduct research on revenue matters, and to exercise general and specific supervision over the valuation and taxation of property throughout the State.

Sec. 186. *Functions of the Department.*—(a) The functions of the Department of Revenue shall comprise, except as otherwise expressly provided by the Executive Organization Act of 1973 or by the Constitution of North Carolina, all executive functions of the State in relation to revenue collection, tax research, tax settlement, and property tax supervision including those prescribed powers, duties and functions enumerated in Article 16 of Chapter 143A of the General Statutes of this State.

(b) All functions, powers, duties, and obligations heretofore vested in any agency enumerated in Article 16 of Chapter 143A of the General Statutes are hereby transferred to and vested in the Department of Revenue, except as otherwise provided by the Executive Organization Act of 1973. They shall

include, by way of extension and not of limitation, the functions of: (1) the Commissioner and Department of Revenue, (2) the Department of Tax Research, and (3) the State Board of Assessment.

Sec. 187. *Head of the Department.*—The Secretary of Revenue shall be the head of the Department.

Sec. 188. *Organization of the Department.*—The Department of Revenue shall be organized initially to include the Property Tax Commission, the Division of Inheritance and Gift Tax, Division of Privilege License, Beverage and Cigarette Tax, Division of Corporate Income and Franchise Tax, Division of Individual Income Tax, Division of Sales and Use Tax, Division of Intangibles Tax, Division of Gasoline Tax, Division of Audit and Collection, Division of Accounts, Division of Planning and Processing, the Division of Tax Research, the Ad Valorem Tax Division, and such other divisions as may be established under the provisions of the Executive Organization Act of 1973.

The Secretary of Revenue may create and appoint committees and councils to consult with and advise him and the subordinate officers of the Department on matters relating to the duties, responsibilities, or functions of the Department; and he may disband any such committee or council at his pleasure.

Sec. 189. *Property Tax Commission; creation, powers, and duties.*—There is hereby created the Property Tax Commission with the authority to hear and decide appeals concerning the appraisal of the property of public service companies (as defined in G.S. 105-333) and to act as a State board of equalization and review for the valuation and taxation of property in the State as provided for in G.S. 105-290. The Commission shall make rules and regulations consistent with the provisions of this Chapter. All rules and regulations heretofore adopted by the State Board of Assessment shall remain in full force and effect unless and until repealed or superseded by action of the Property Tax Commission. All rules and regulations adopted by the Commission shall be enforced by the Department of Revenue.

Sec. 190. *Property Tax Commission; members, selection, quorum, compensation.*—The Property Tax Commission of the Department of Revenue shall consist of five members with three appointed by the Governor and one each appointed by the Lieutenant Governor and the Speaker of the House. The initial members of the Commission shall be the appointed members of the State Board of Assessment who shall serve for a period equal to the remainder of their current term on the State Board of Assessment, one of whose term expires July 1, 1973, and three of whose terms expire July 1, 1975. At the end of the respective terms of office of the initial members of the Commission, their successors shall be appointed for staggered terms for four years and until their successors are appointed and qualify. To achieve the staggered terms, the Governor shall make two appointments on July 1, 1973, each for four years and one appointment on July 1, 1975, for four years. The Lieutenant Governor and the Speaker of the House shall make their respective appointments on July 1, 1975, for four years. Thereafter, the appointment of their successors shall be for terms of four years.

Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the right to remove any member for misfeasance, malfeasance or nonfeasance in accordance with the provisions of Section 13 of the Executive Organization Act of 1973.

The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

The majority of the Commission shall constitute a quorum for the transaction of business.

All clerical and other services required by the Commission shall be supplied by the Secretary of Revenue.

Sec. 191. *Officers of the Property Tax Commission.*—The Property Tax Commission shall have a chairman and a vice-chairman. The chairman shall be designated by the Governor from among the members of the Commission to serve as chairman at his pleasure. The vice-chairman shall be elected by and from the members of the Commission and shall serve for a term of two years or until the expiration of his regularly appointed term.

Sec. 192. *Regular and special meetings.*—The Property Tax Commission shall meet at least once in each quarter and may hold special meetings at any time and place within the State at the call of the chairman or upon the written request of at least three members. At least 15 days' reasonable notice shall be given to each member with respect to each special meeting.

Sec. 193. *Department of Revenue; conforming changes.*—(a)(1) Whenever the words "North Carolina Commissioner of Revenue" or "State Commissioner of Revenue" or "Commissioner of Revenue" or "Commissioner" when referring to the Commissioner of Revenue are used or appear in any statute or law of this State, the same shall be deleted and the words "Secretary of Revenue" or "Secretary" as appropriate shall be inserted in lieu thereof unless otherwise provided for in the Executive Organization Act of 1973.

(2) Whenever the words "Department of Tax Research" or "Department" when referring to the Department of Tax Research are used or appear in any statute or law of this State, the same shall be deleted and the words "Department of Revenue" or "Department" as appropriate shall be inserted in lieu thereof unless otherwise provided for in the Executive Organization Act of 1973.

(3) Whenever the words "Director of the Department of Tax Research" or "Director" when referring to the Director of the Department of Tax Research or "Chairman of the State Board of Assessment" or "Chairman of the Board" when referring to the chairman of the State Board of Assessment are used or appear in any statute or law of this State, the same shall be deleted and the words "Secretary of Revenue" or "Secretary" as appropriate shall be inserted in lieu thereof unless otherwise provided for in the Executive Organization Act of 1973.

(4) Whenever the words "State Board of Assessment" or "Board of Assessment" or "Board" when referring to the State Board of Assessment are used or appear in any statute or law of this State, the same shall be deleted and the words "Department of Revenue" or "Department" shall be inserted in lieu thereof unless otherwise provided for in the Executive Organization Act of 1973. With the exception that in the following references, the words "State Board of Assessment" or "Board of Assessment" or "Board" when referring to the State Board of Assessment shall be deleted and the words "Property Tax Commission" or "Commission" as appropriate shall be inserted in lieu thereof: G.S.

105-115(1), line 3; G.S. 105-289(a)(2)a.; G.S. 105-289(a)(2)b., line 3; G.S. 105-289(a)(3)a.; G.S. 105-289(a)(3)b., line 1; G.S. 105-290(a), line 3; G.S. 105-290(b), line 2; G.S. 105-290(b)(2), line 2; G.S. 105-290(b)(2)a., lines 6, 11, 17, 19, and 21; G.S. 105-290(b)(2)a.2., line 2; G.S. 105-290(b)(2)b., line 1, both references, and lines 3, 6, and 10; G.S. 105-290(b)(3), lines 2 and 10; G.S. 105-290(c), line 2; G.S. 105-290(c)(1), line 6; G.S. 105-290(c)(2), lines 1, 4, 5, and 6; G.S. 105-290(c)(3), line 2; G.S. 105-290(c)(3)b., lines 3, 4, and 5; G.S. 105-291(d), line 1; G.S. 105-312(a)(4), line 7; G.S. 105-312(d), line 12; G.S. 105-317(c)(1), lines 6, 9, 12, and 13; G.S. 105-321(d), line 2; G.S. 105-322(g)(3)a., line 10; G.S. 105-324(b), lines 5, 9, and 10; G.S. 105-324(c), lines 4, 8, and 9; G.S. 105-325(a)(1), line 1; G.S. 105-325(c), line 3; G.S. 105-327, line 3; G.S. 105-328(b)(4), line 5; G.S. 105-342(b), lines 9 and 13; G.S. 105-342(c), lines 4, 12, 17, and 18, both references; G.S. 105-342(d), lines 1, 4, 6, and 9.

(b) In addition to the foregoing, the following amendments to the General Statutes of North Carolina are hereby made:

(1) G.S. 105-288 shall be rewritten to read as follows:

“(a) Duties of the Department of Revenue:

(1) The Department shall exercise general and specific supervision over the valuation and taxation of property by counties and municipalities throughout the State.

(2) The Department is responsible for appraising the property of public service companies as defined in G.S. 105-333.

(b) Duties of the Property Tax Commission:

(1) The Commission is constituted as the State Board of Equalization and Review for the valuation and taxation of property in the State.

(2) The Commission shall hear appeals from the appraisal and assessment of the property of public service companies as defined in G.S. 105-333.

(c) Each member of the Commission, the Secretary of Revenue, and the employees of the Department assigned duties and responsibilities enumerated in this Chapter shall take and subscribe the oath set up below and file it with the Secretary of State:

I, _____, do solemnly swear, or affirm, that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office and that I will not allow my actions in such office to be influenced by personal or political friendships or obligations, so help me, God.

Signature

(d)(1) All expenses of the Commission, and the Department of Revenue in performing the duties enumerated in this Article shall be paid from funds appropriated out of revenue derived from the tax on intangible personal property as provided by G.S. 105-213.”

(2) G.S. 105-289(d), (e), (f), (g), (h), (i), shall be redesignated G.S. 105-289(b), (c), (d), (e), (f), (g), respectively.

(3) The word “its” shall be deleted and the words “the Commission’s” shall be inserted in lieu thereof on line 1 of G.S. 105-289(a)(4).

(4) G.S. 105-289(e) shall be rewritten to read as follows: "In accordance with regulations that may be adopted by it, the Department of Revenue shall make available to county tax supervisors, boards of equalization and review, and boards of county commissioners any information contained in any report to it or any other State department, or any other information that the Department may have in its possession that may assist the county authorities in securing a complete listing of property for taxation and in appraising taxable property."

(5) G.S. 105-289(e)(2) shall be rewritten to read as follows: "Except as provided in this subsection (c), and except to the Governor and his authorized agent, and except to a solicitor or the authorized agent of a solicitor of a district in which such information would affect the listing or appraisal of property for taxation, neither the Department nor the Commission shall divulge or make public the reports made to it or to other State departments. (The provisions of this subsection shall not interfere with the publication of appraisals, assessments, or statistics by the Department or decisions made by the Commission, nor shall the provisions of this subsection prevent presentation of such information in any administrative or judicial proceeding involving appraisals, assessments, or decisions of the Commission.)"

(6) The words "subsection (e)" shall be deleted and the words "subsection (c)" shall be inserted in lieu thereof on line 2 of G.S. 105-289(e).

(7) The first sentence of G.S. 105-290(b)(2)a. shall be rewritten to read as follows: "Hearing by Commission Representatives. The Commission is empowered to authorize any member or members of the Commission or employee of the Department of Revenue to hear an appeal, to make examinations and investigations, to have made from stenographic notes a full and complete record of the evidence offered at the hearing, and to make recommended findings of fact and conclusions of law."

(8) The first sentence of G.S. 105-290(d)(1) shall be rewritten to read as follows: "The Property Tax Commission, a member of the Commission, or any employee of the Department of Revenue authorized by the Commission, is authorized and empowered to subpoena witnesses and to subpoena documents upon a subpoena to be signed by the chairman of the Commission directed to the witness or witnesses or to the person or persons having custody of the documents sought."

(9) The first sentence of G.S. 105-290(d) is rewritten to read as follows: "Witnesses and Documents. Upon its own motion or upon the request of any party to an appeal, the Property Tax Commission, or any member of the Commission, or any employee of the Department of Revenue so authorized by the Commission shall examine witnesses under oath administered by any member of the Commission or any employee of the Department so authorized by the Commission, and examine the documents of any person if there is ground for believing that information contained in such documents is pertinent to the decision of any appeal pending before the Commission, regardless of whether such person is a party to the proceeding before the Commission."

(10) The words "promote the purposes for which it is constituted" shall be deleted and the words "perform the duties or responsibilities of this Chapter" shall be inserted in lieu thereof on lines 2 and 3 of G.S. 105-291(b).

(11) The words "its members," shall be deleted from line 2 of G.S. 105-291(c), line 2 of G.S. 105-291(c)(1), and line 2 of G.S. 105-291(c)(2).

(12) The words "State Board of Assessment" shall be deleted and the words "Secretary of Revenue" shall be inserted in lieu thereof on line 8 of G.S. 105-343 and the word "Board" shall be deleted and the word "secretary" shall be inserted in lieu thereof on line 9 of G.S. 105-343.

(e) The following sections of the General Statutes of North Carolina are hereby repealed: G.S. 105-289(b); G.S. 105-289(c); G.S. 105-292; G.S. 105-293; G.S. 105-450; G.S. 105-451; G.S. 105-452; G.S. 105-454; G.S. 105-457; and Article 16 of Chapter 143A of the General Statutes of North Carolina being sections G.S.143A-186 through G.S. 143A-190.

Sec. 194. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 14th day of May, 1973.

S. B. 294

CHAPTER 477

AN ACT TO PROVIDE FOR THE ENFORCEMENT OF WELFARE LIENS
IN AVERY COUNTY AND FOR THE DISPOSITION OF THE
PROCEEDS OF SALES UNDER THE LIENS.

The General Assembly of North Carolina enacts:

Section 1. Any other provision of law to the contrary notwithstanding, all Aid to the Aged and Disabled welfare liens which Avery County has or hereafter acquires shall be enforced only by judicial sale of the realty to the highest bidder and Avery County's share of the proceeds of the sale shall be deposited in the general fund of the county.

This act shall not affect pending litigation.

Sec. 2. This act shall be effective October 1, 1973.

In the General Assembly read three times and ratified, this the 14th day of May, 1973.

S. B. 317

CHAPTER 478

AN ACT TO ALLOW FARMERS TO TRANSPORT CUCUMBERS FROM
FARM TO MARKET UPON UNLICENSED TRAILERS WHEN
DRAWN BY PROPERLY LICENSED VEHICLES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-51(6) is hereby amended by inserting in the fourth line after "silage," the following: "cucumbers,".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of May, 1973.

S. B. 334

CHAPTER 479

AN ACT TO AMEND G.S. 47-71.1 SO AS TO VALIDATE CORPORATE DEEDS MADE PRIOR TO JANUARY 1, 1973, ON WHICH THE CORPORATE SEAL WAS OMITTED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 47-71.1, as the same appears in the 1971 Cumulative Supplement to Volume 2A of the General Statutes, is amended by striking from the second line thereof the year "1971" and substituting in lieu thereof "1973".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of May, 1973.

S. B. 473

CHAPTER 480

AN ACT TO TRANSFER FEDERAL TAX LIENS FILED BEFORE OCTOBER 1, 1969, TO THE CLERK OF COURT'S OFFICE.

The General Assembly of North Carolina enacts:

Section 1. Section 44-68.5 of the North Carolina General Statutes is rewritten as follows:

"§ 44-68.5. *Tax liens and notices filed before October 1, 1969.*—Federal tax liens, certificates and notices affecting such liens filed before October 1, 1969, and the indexes thereto shall be transferred and maintained in the offices of the Clerks of Court. If a notice of lien was filed before October 1, 1969, any certificate or notice affecting the lien shall, after the effective date of this act, be filed in the offices of the Clerks of Court."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of May, 1973.

S. B. 520

CHAPTER 481

AN ACT TO AMEND CHAPTER 713 OF THE SESSION LAWS OF 1965, BEING THE CHARTER OF THE CITY OF CHARLOTTE RELATING TO WRITTEN CONTRACTS.

The General Assembly of North Carolina enacts:

Section 1. Section 9.82, Subchapter E of Chapter 9, Chapter 713, Session Laws of 1965, as amended by Chapter 333, Session Laws of 1969, is hereby further amended by deleting the words and figures "three thousand dollars (\$3,000)" each time they appear, and substituting in lieu thereof the words and figures "five thousand dollars (\$5,000)", and by deleting "G.S. 160-279" as a statutory reference and substituting in lieu thereof "G.S. 160A-16 and G.S. 143-129".

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 14th day of May, 1973.

S. B. 637

CHAPTER 482**AN ACT PROHIBITING THE RUNNING AND CHASING OF FOX WITH DOGS BETWEEN JANUARY 1 AND SEPTEMBER 1 IN CARTERET COUNTY.**

Whereas, one of the primary causes for the decrease in the deer population in eastern North Carolina is the unnecessary killing of doe deer by dogs running fox when the deer are heavy with fawn and unable to escape the dogs; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. It shall be unlawful for any person, by or with the use of dogs, to run or chase fox between January 1 and September 1.

Sec. 2. It shall be unlawful for any person to allow dogs to run or chase fox between January 1 and September 1.

Sec. 3. Violation of this act shall be a misdemeanor punishable by a fine of not more than one hundred dollars (\$100.00) or imprisonment not to exceed 30 days, or both, at the discretion of the court.

Sec. 4. This act shall apply only to Carteret County.

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of May, 1973.

S. B. 700

CHAPTER 483**AN ACT TO AMEND G.S. 7A-133 TO INCREASE BY ONE THE MAXIMUM NUMBER OF MAGISTRATES AUTHORIZED FOR LENOIR COUNTY.**

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-133 is amended, in the table, by deleting the figure "6" indicating the maximum number of magistrates authorized for Lenoir County, and inserting in lieu thereof the figure "7".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of May, 1973.

S. B. 705

CHAPTER 484**AN ACT TO AMEND G.S. 105-275 OF THE GENERAL STATUTES OF NORTH CAROLINA.**

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-275 is hereby amended by adding a new subsection thereto to be designated as subsection (6) and to read as follows:

"(6) Motor vehicle chassis belonging to nonresidents, which chassis temporarily enters the State for the purpose of having a body mounted thereon."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of May, 1973.

S. B. 861

CHAPTER 485**AN ACT RELATING TO ZONING BY SURRY COUNTY AND THE MUNICIPALITIES LOCATED THEREIN.***The General Assembly of North Carolina enacts:*

Section 1. The Board of County Commissioners of Surry County and the governing boards of municipalities located in Surry County are hereby empowered, in accordance with the conditions and procedure specified in this act, by ordinance to regulate within their respective lawful jurisdictions the uses of buildings and structures for trade, industry, residence, recreation, public activities or other purposes, and the uses of land for trade, industry, residence, recreation, agriculture, water supply conservation, soil conservation, forestry or other purposes.

For any or all these purposes, the County and municipalities located therein may divide their territorial jurisdiction into districts of any number, shape, and area that may be deemed best suited to carry out the purposes of this section; and within those districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures, or land. All regulations shall be uniform for each class or kind of building throughout each district, but the regulations in one district may differ from those in other districts; provided, however, that the County and municipalities located therein may provide for the creation of special use districts in addition to general use districts.

It is the purpose and intent of this section to permit Surry County and the municipalities located therein to create general use districts in which a variety of uses are permitted, and to also create special use districts in which a single use is permitted upon the issuance by the Board of County Commissioners or municipal governing board of a special use permit prescribing the conditions under which such use will be permitted.

A person petitioning for rezoning of a tract of land, where special use districts are authorized by ordinance, may elect to request general use district zoning for said tract, or he may elect to request special use district zoning for said tract.

If he elects to petition for general use district zoning, he may not refer, either in his petition or at any hearings related to the petition, to the use intended for the property upon rezoning. The Board of County Commissioners or municipal governing board may not consider the intended use in determining whether to approve or disapprove the petition, but shall consider the full range of uses permitted within the requested general use district. If the petition is approved, the rezoned property may be used for any of the uses permitted in the applicable general use district.

If the petitioner elects to petition for special use district zoning, the petition must specify the actual use intended for the property specified in the petition, and the intended use must be one permitted in the corresponding general use district. If the petition is for special use district zoning, the Board of County Commissioners or municipal governing board is to approve or disapprove the petition on the basis of the specific use requested. If the petition is approved, the Board of County Commissioners or municipal governing board shall issue a special use permit authorizing the requested use with such suggestions as the respective Board determines to be desirable.

The suggestions contained in a special use permit issued by the Board of County Commissioners or municipal governing board may include: location of the proposed use on the property; the number of dwelling units; the location and extent of support facilities such as parking lots, driveways, and access streets; location and extent of buffer areas and other special purpose areas; the timing of development; and such other matters as the petitioner may propose and the Board of County Commissioners or municipal governing board may find appropriate, but not to include architectural review or controls.

It is the further intent of this section to permit the creation of districts for specific uses and the imposition of reasonable conditions in order to secure the public health, safety and welfare, and insure that substantial justice be done.

Sec. 2. This act shall apply only to Surry County and the municipalities located therein within their respective lawful jurisdictions.

Sec. 3. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 4. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 14th day of May, 1973.

S. B. 888

CHAPTER 486

AN ACT TO PROVIDE FOR ELECTION ON THE ISSUE OF MERGER AND CONSOLIDATION OF CERTAIN SPECIFICALLY DESCRIBED AREAS PRESENTLY LOCATED IN THE ROCKINGHAM COUNTY SCHOOL ADMINISTRATIVE UNIT WITH THE MADISON-MAYODAN CITY SCHOOL ADMINISTRATIVE UNIT.

The General Assembly of North Carolina enacts:

Section 1. On or before July 1, 1973, at a date to be established by the Board of Commissioners of Rockingham County, there shall be held an election in the following specifically described areas presently located within the Rockingham County School Administrative Unit:

"BEGINNING at a point, in the Virginia State Line, said point marking a common corner of Stokes and Rockingham County in said State Line; thence, in a southerly direction, with the common boundary of Stokes and Rockingham County, to the North boundary line of the present Madison-Mayodan Administrative School Unit; thence, in an easterly direction, with the present Madison-Mayodan Administrative School Unit's North boundary line, to its intersection with Dan River; thence, in a northerly direction, with the meanders of said river to a point where the West boundary line of the Eden School District intersects said river; thence, in a northwesterly direction with the Eden School District boundary line, to its intersection with the Virginia State line; thence, in a westerly direction, with the Virginia State Line to the point of BEGINNING."

Sec. 2. The election shall be held on the issue of whether or not the above specifically described areas shall be merged and consolidated with the Madison-Mayodan City School Administrative Unit. In such election, to be conducted by the Rockingham County Board of Elections, no new registration shall be required and the registration books for this election shall be closed three weeks prior to the election. Except as herein provided, the election authorized in

this act shall be conducted by the Rockingham County Board of Elections in accordance with the provisions of Chapter 163 of the General Statutes governing elections. No absentee voting shall be permitted in this election, and the election shall be conducted on a strictly nonpartisan basis. Expense of the election authorized in this act shall be paid by the Board of Commissioners of Rockingham County from the County General Fund.

Sec. 3. On each ballot used in the election provided for by this act, there shall be stated two provisions, in substantially the following form and words: "For merger and consolidation with the Madison-Mayodan City School Administrative Unit", and "Against merger and consolidation with the Madison-Mayodan City School Administrative Unit". In the event that a majority of the voters who shall vote in the election provided for in this act shall vote in favor of merger and consolidation, the areas described in Section 1 of this act shall become a part of the Madison-Mayodan City School Administrative Unit. That the date of such merger shall be July 1, 1973.

Sec. 4. Upon approval of the merger by the voters affected the Boards of Education of Rockingham County and the Madison-Mayodan City Administrative School Unit shall agree with each other as to the division and disposition of the school property now being owned and used by the Rockingham County Board of Education within the above defined area, except as to all the real property situated within said area which shall be conveyed to Madison-Mayodan City Administrative School Unit within 10 days following said election; that in the event said boards are unable to voluntarily agree on the division and disposition of all of said property by August 1, 1973, then the matter of ownership as to such property in dispute shall be referred to the State Board of Education and its decision as to ownership shall be final and binding on said boards.

Sec. 5. Upon approval of this merger by the voters affected, the Board of Education of the Madison-Mayodan City Administrative Unit shall be increased from five to seven members, one of whom shall be from the corporate limits of the Town of Stoneville and the other member to be an at-large member from the administrative unit. The original member from the Town of Stoneville shall be appointed by the present members of the Board of Education and shall serve for a term to expire December 1, 1974, and his successor shall be elected in accordance with the present laws governing the election of board members. The additional at-large member shall be appointed by the present members of the Board of Education and shall serve for a term to expire December 1, 1976, and his successor shall be elected in accordance with the present laws governing the election of board members.

Sec. 6. The provisions of this act are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

Sec. 7. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of May, 1973.

S. B. 907

CHAPTER 487

AN ACT TO AMEND CHAPTER 57 OF THE SESSION LAWS OF 1973,
RELATING TO THE ALBEMARLE DISTRICT JAIL.

The General Assembly of North Carolina enacts:

Section 1. Chapter 57 of the Session Laws of 1973 is hereby amended by adding a new Section 3.1 immediately following Section 3, and to read as follows:

“§ 3.1. The provisions of G.S. 153-189 shall not be applicable to the Albemarle District Jail in Elizabeth City, and no orders shall be issued pursuant to G.S. 153-189 committing any person to the Albemarle District Jail.”

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of May, 1973.

H. B. 12

CHAPTER 488

AN ACT TO IMPROVE THE GENERAL ASSEMBLY AND MAKE IT
MORE EFFECTIVE.

Whereas, the General Assembly of North Carolina has long endeavored to perform its functions in a responsible, efficient and economical fashion, and

Whereas, the acquisition, installation and use of electronic voting apparatus which can quickly and accurately record the vote on any issue, as provided for in the rules adopted by the House of Representatives or the Senate, is consistent with the goal of a more efficient and responsive General Assembly; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The General Assembly of North Carolina shall, in accordance with rules adopted by each of the respective bodies, vote by use of electronic voting apparatus. The electronic voting apparatus shall be purchased by and installed under the direct supervision of the Legislative Services Commission as soon as is practicable, but in any event the apparatus shall be installed and fully operational as soon as possible after January 1, 1975.

Sec. 2. The rules of the House of Representatives and the Senate shall be amended so as to provide for the installation and use of electronic voting apparatus.

Sec. 3. Working plans for the installation of electronic voting equipment shall be submitted to the Legislative Services Commission for approval to the end that the architectural integrity of the building may be preserved.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of May, 1973.

H. B. 330

CHAPTER 489

AN ACT AUTHORIZING COUNTIES TO ESTABLISH SERVICE DISTRICTS IN ORDER TO PROVIDE CERTAIN SERVICES IN UNINCORPORATED AREAS AND TO LEVY TAXES THEREIN AND ISSUE BONDS THEREFOR IN ORDER TO FINANCE SUCH SERVICES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 153 of the General Statutes of North Carolina is amended by inserting therein a new article as follows:

“Article 16

“County Service Districts

“§ 153-300. *Title.*—This article may be cited as ‘The County Service District Act of 1973,’ and is enacted pursuant to Article V, Section 2(4) of the Constitution of North Carolina, effective July 1, 1973.

“§ 153-301. *Purposes for which districts may be established.*—The board of commissioners of any county may define any number of service districts in order to finance, provide, or maintain for the districts one or more of the following services, facilities and functions in addition to or to a greater extent than those financed, provided or maintained for the entire county:

- (1) Beach erosion control and flood and hurricane protection works;
- (2) Fire protection;
- (3) Recreation;
- (4) Sewage collection and disposal systems;
- (5) Solid waste collection and disposal systems;
- (6) Water supply and distribution systems.

“§ 153-302. *Definition of service districts.*—(a) Standards. In determining whether to establish a proposed service district, the board of commissioners shall consider:

- (1) the resident or seasonal population and population density of the proposed district;
- (2) the appraised value of property subject to taxation in the proposed district;
- (3) the present tax rates of the county and any cities or special districts in which the district or any portion thereof is located;
- (4) the ability of the proposed district to sustain the additional taxes necessary to provide the services planned for the district;
- (5) if it is proposed to furnish water, sewer, or solid waste collection services in the district, the probable net revenues of the projects to be financed and the extent to which the services will be self-supporting;
- (6) any other matters that the commissioners believe to have a bearing on whether the district should be established.

The board of commissioners may establish a service district if, upon the information and evidence it receives, the board finds that

- (1) there is a demonstrable need for providing in the district one or more of the services listed in § 153-301;
- (2) it is impossible or impracticable to provide those services on a county-wide basis;
- (3) it is economically feasible to provide the proposed services in the district without unreasonable or burdensome annual tax levies; and

- (4) there is a demonstrable demand for the proposed services by persons residing in the district.

Territory lying within the corporate limits of a city or sanitary district may not be included unless the governing body of the city or sanitary district agrees by resolution to such inclusion.

(b) Report. Before the public hearing required by subsection (c), the board of commissioners shall cause to be prepared a report containing:

- (1) a map of the proposed district, showing its proposed boundaries;
- (2) a statement showing that the proposed district meets the standards set out in subsection (a); and
- (3) a plan for providing one or more of the services listed in G.S. 153-301 to the district.

The report shall be available for public inspection in the office of the clerk to the board for at least four weeks before the date of the public hearing.

(c) Hearing and Notice. The board of commissioners shall hold a public hearing before adopting any resolution defining a new service district under this section. Notice of the hearing shall state the date, hour, and place of the hearing and its subject, and shall include a map of the proposed district and a statement that the report required by subsection (b) is available for public inspection in the office of the clerk to the board. The notice shall be published at least once not less than one week before the date of the hearing. In addition, it shall be mailed by first class mail at least four weeks before the date of the hearing to the owners as shown by the county tax records as of the preceding January 1 (and at the address shown thereon) of all property located within the proposed district. The person designated by the board to mail the notice shall certify to the board that the mailing has been completed and his certificate is conclusive in the absence of fraud.

(d) Effective Date. The resolution defining a service district shall take effect at the beginning of a fiscal year commencing after its passage, as determined by the board of commissioners.

“§ 153-303. *Extension of service districts.*—(a) Standards. The board of commissioners may by resolution annex territory to any service district upon finding that:

- (1) the area to be annexed is contiguous to the district, with at least one-eighth of the area's aggregate external boundary coincident with the existing boundary of the district; and
- (2) that the area to be annexed requires the services of the district.

(b) Annexation by Petition. The board of commissioners may also by resolution extend by annexation the boundaries of any service district when one hundred percent (100%) of the real property owners of the area to be annexed have petitioned the board for annexation to the service district.

(c) Territory lying within the corporate limits of a city or sanitary district may not be annexed to a service district unless the governing body of the city or sanitary district agrees by resolution to such annexation.

(d) Report. Before the public hearing required by subsection (e), the board shall cause to be prepared a report containing:

- (1) a map of the service district and the adjacent territory, showing the present and proposed boundaries of the district;
- (2) a statement showing that the area to be annexed meets the standards and requirements of subsections (a), (b), and (c); and

(3) a plan for extending services to the area to be annexed.

The report shall be available for public inspection in the office of the clerk to the board for at least two weeks before the date of the public hearing.

(e) **Hearing and Notice.**—The board shall hold a public hearing before adopting any resolution extending the boundaries of a service district. Notice of the hearing shall state the date, hour and place of the hearing and its subject, and shall include a statement that the report required by subsection (d) is available for inspection in the office of the clerk to the board. The notice shall be published at least once not less than one week before the date of the hearing. In addition, the notice shall be mailed at least four weeks before the date of the hearing to the owners as shown by the county tax records as of the preceding January 1 of all property located within the area to be annexed. The person designated by the board to mail the notice shall certify to the board that the mailing has been completed, and his certificate shall be conclusive in the absence of fraud.

(f) **Effective Date.** The resolution extending the boundaries of the district shall take effect at the beginning of a fiscal year commencing after its passage, as determined by the board.

“§ 153-304. *Consolidation of service districts.*—(a) The board of commissioners may by resolution consolidate two or more service districts upon finding that:

- (1) the districts are contiguous or are in a continuous boundary;
- (2) the services provided in each of the districts are substantially the same;
- or
- (3) if the services provided are lower for one of the districts, there is a need to increase those services for that district to the level of that enjoyed by the other districts.

(b) **Report.** Before the public hearing required by subsection (c), the board of commissioners shall cause to be prepared a report containing:

- (1) a map of the districts to be consolidated;
- (2) a statement showing the proposed consolidation meets the standards of subsection (a); and
- (3) if necessary, a plan for increasing the services for one of the districts so that they are substantially the same throughout the consolidated district.

The report shall be available in the office of the clerk to the board for at least two weeks before the public hearing.

(c) **Hearing and Notice.** The board of commissioners shall hold a public hearing before adopting any resolution consolidating service districts. Notice of the hearing shall state the date, hour, and place of the hearing and its subject, and shall include a statement that the report required by subsection (b) is available for inspection in the office of the clerk to the board. The notice shall be published at least once not less than one week before the date of the hearing. In addition, the notice shall be mailed at least four weeks before the hearing to the owners as shown by the county tax records as of the preceding January 1 of all property located within the consolidated district. The person designated by the board to mail the notice shall certify to the board that the mailing has been completed, and his certificate shall be conclusive in the absence of fraud.

(d) **Effective Date.** The consolidation of service districts shall take effect at the beginning of a fiscal year commencing after passage of the resolution of consolidation, as determined by the board.

“§ 153-305. *Required provision or maintenance of services.*—(a) **New district.** When a county defines a new service district, it shall provide, maintain, or let contracts for the services for which the residents of the district are being taxed within a reasonable time, not to exceed one year, after the effective date of the definition of the district.

(b) **Extended District.** When a county annexes territory to a service district, it shall provide, maintain, or let contracts for the services provided or maintained throughout the district to the residents of the area annexed to the district within a reasonable time, not to exceed one year, after the effective date of the annexation.

(c) **Consolidated District.** When a county consolidates two or more service districts, one of which has had provided or maintained a lower level of services, it shall increase the services within that district (or let contracts therefor) to a level comparable to those provided or maintained elsewhere in the consolidated district within a reasonable time, not to exceed one year, after the effective date of the consolidation.

“§ 153-306. *Abolition of service districts.*—Upon finding that there is no longer a need for a particular service district and that there are no outstanding bonds or notes issued to finance projects in the district, the board of commissioners may by resolution abolish that district. The board shall hold a public hearing before adopting a resolution abolishing a district. Notice of the hearing shall state the date, hour and place of the hearing, and its subject, and shall be published at least once not less than one week before the date of the hearing. The abolition of any service district shall take effect at the end of a fiscal year following passage of the resolution, as determined by the board.

“§ 153-307. *Taxes authorized; rate limitation.*—A county may levy property taxes within defined service districts in addition to those levied throughout the county, in order to finance, provide or maintain for the districts services provided therein in addition to or to a greater extent than those financed, provided or maintained for the entire county. In addition, a county may allocate to a service district any other revenues whose use is not otherwise restricted by law.

Property subject to taxation in a newly established district or in an area annexed to an existing district is that subject to taxation by the county as of the preceding January 1.

Property taxes may not be levied within any district established pursuant to this Article in excess of a rate on each one hundred dollars (\$100.00) value of property subject to taxation which, when added to the rate levied county-wide for purposes subject to the rate limitation, would exceed the rate limitation established in G.S. 153-65(c), unless that portion of the rate in excess of this limitation is submitted to and approved by a majority of the qualified voters residing within the district. Any referendum held pursuant to this paragraph shall be held and conducted as provided in G.S. 153-65.

“§ 153-308. *Bonds authorized.*—A county may issue its general obligation bonds under the Local Government Bond Act to finance services, facilities, or functions provided within a service district. If a proposed bond issue is required by law to be submitted to and approved by the voters of the county, and if the

proceeds of the proposed bond issue are to be used in connection with a service that is or, if the bond issue is approved, will be provided only for one or more service districts or at a higher level in service districts than county-wide, the proposed bond issue must be approved concurrently by a majority of those voting throughout the entire county and by a majority of the total of those voting in all of the affected or to be affected service districts.

Sec. 2. The second sentence of G.S. 160A-321 is rewritten to read as follows: "However, except as to transfers to another governmental entity pursuant to G.S. 160A-274, a city-owned enterprise shall not be sold, leased to another, or discontinued unless the proposal to sell, lease, or discontinue is first submitted to a vote of the people and approved by a majority of those who vote thereon."

Sec. 3. G.S. 159-13 is amended as follows:

(a) Subsection (a) is amended by adding a new paragraph, numbered (10), to read as follows:

"(10) A fund for each service district established pursuant to the County Service District Act or the Municipal Service District Act to account for the proceeds of taxes levied for the district and all other revenues allocated to the district."

(b) Subsection (b) is amended by adding a new paragraph, numbered (18), to read as follows:

"(18) No appropriation may be made from a service district fund to any other fund except (i) to the appropriate debt service fund or (ii) to an appropriate account in a capital reserve fund unless the district has been abolished."

Sec. 4. All portions of this act except G.S. 153-307 and 153-308 become effective upon ratification. G.S. 153-307 and 153-308 become effective on July 1, 1973, but all acts necessary to approve a tax levy or issue bonds on or after July 1, 1973 must be taken at any time after the effective date of this act.

In the General Assembly read three times and ratified, this the 14th day of May, 1973.

H. B. 454

CHAPTER 490

AN ACT TO AMEND GENERAL STATUTE 58-79.2 SO AS TO PERMIT THE ISSUANCE OF VARIABLE LIFE INSURANCE CONTRACTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-79.2, as the same appears in the 1971 Cumulative Supplement of Volume 2B of the General Statutes, is hereby amended, as follows:

(a) By deleting from the first line of subsection(a) the word "annuity" and by inserting in the third line of said subsection immediately preceding the words "annuity benefits" the words "life insurance or".

(b) By deleting from subsection(b) the word "annuity" and by inserting immediately before the period appearing at the end of said subsection the following: "(including without limitation proceeds applied under optional modes of settlement or under dividend options) to provide for life insurance or annuities (and benefits incidental thereto) payable in fixed or variable amounts or both".

(c) By deleting from subsection(f) the words "No separate account shall invest in the voting securities of a single issuer in an amount" and by inserting

in lieu thereof the words: "Unless otherwise permitted by law or approved by the Commissioner, no company shall purchase or otherwise acquire for its separate accounts the voting securities of any issuer if as a result of such acquisition the insurance company and its separate accounts, in the aggregate, will own".

(d) By deleting from the last sentence of subsection (i) the word "annuity".

(e) By rewriting the first sentence of subsection(k) to read as follows: "The life insurance company shall have the power and the company's charter shall be deemed amended to authorize such company to do all things necessary under any applicable state or federal law in order that variable contracts may be lawfully sold or offered for sale. To the extent such company deems it necessary to comply with any applicable federal or state laws, such company, with respect to any separate account, including without limitation any separate account which is a management investment company or a unit investment trust, may provide, for persons having an interest therein, appropriate voting and other rights and special procedures for the conduct of the business of such account, including without limitation special rights and procedures relating to investment policy, investment advisory services, selection of independent public accountants, and the selection of a committee, the members of which need not be otherwise affiliated with such company, to manage the business of such account."

(f) By deleting from the first line in subsection(o) the words "variable annuity" and by rewriting the second sentence of said subsection to read as follows: "Any such contract under which the benefits vary to reflect investment experience, including a group contract and any certificate in evidence of variable benefits issued thereunder, shall state that such dollar amount will so vary and shall contain on its first page a statement to the effect that the benefits thereunder are on a variable basis."

(g) By adding at the end of subdivision(3) of subsection (q) a new sentence reading: "The state of entry of an alien company shall be deemed its place of domicile for this purpose.", and said subsection(q) is further amended by rewriting the last sentence thereof to read as follows: "If the company is a subsidiary of an admitted life insurance company, or affiliated with such company through common management or ownership, it may be deemed by the Commissioner to have met the provisions of this subsection if either it or the parent or affiliated company meets the requirements hereof."

(h) Subsection(s) is hereby rewritten to read as follows: "Except for G.S. 58-207 in the case of a variable annuity contract and G.S. 58-201.2, 58-207 and 58-211(1) in the case of a variable life insurance policy and except as otherwise provided in this section, all pertinent provisions of the insurance laws of this State shall apply to separate accounts and contracts issued in connection therewith. Any individual variable life insurance contract, delivered or issued for delivery within this State shall contain reinstatement and nonforfeiture provisions appropriate to such a contract. Any group variable life insurance contract, delivered or issued for delivery within this State shall contain grace provisions appropriate to such a contract. Any individual variable annuity contract, delivered or issued for delivery within this State shall contain reinstatement provisions appropriate to such a contract."

Sec. 2. This act shall be in full force and effect from and after July 1, 1973.

In the General Assembly read three times and ratified, this the 14th day of May, 1973.

H. B. 502**CHAPTER 491**

AN ACT TO REPEAL CHAPTER 1039, SESSION LAWS OF 1969.

The General Assembly of North Carolina enacts:

Section 1. Chapter 1039, Session Laws of 1969, is repealed.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of May, 1973.

H. B. 503**CHAPTER 492**

AN ACT TO VALIDATE ELECTIONS PREVIOUSLY HELD IN AND FOR MUNICIPALITIES, SPECIAL DISTRICTS, AND SCHOOL DISTRICTS PURSUANT TO SUBCHAPTER IX OF CHAPTER 163 OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. All elections, and the results thereof, previously held in and for any municipality, special district, or school administrative unit pursuant to Subchapter IX, G.S. 163, are hereby validated.

Sec. 2. This act shall not affect pending litigation.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of May, 1973.

H. B. 522**CHAPTER 493**

AN ACT TO PROVIDE FOR TREATMENT OF HANDICAPPED AND DISABLED PERSONS EQUAL TO THAT AFFORDED OTHER PERSONS.

The General Assembly of North Carolina enacts:

Section 1. A new Chapter is hereby added immediately following Chapter 167 of the General Statutes of North Carolina to be numbered Chapter 168, and to read as follows:

“Chapter 168.

“Article 1.

“Rights of Handicapped Persons.

“§ 168-1. *Purpose and definition.*—The State shall encourage and enable handicapped persons to participate fully in the social and economic life of the State and to engage in remunerative employment. The definition of ‘handicapped persons’ shall include those individuals with physical, mental and visual disabilities. For the purposes of this Article the definition of ‘visually handicapped’ in G.S. 111-11 shall apply.

“§ 168-2. *Right of access to and use of public places.*—Handicapped persons have the same right as the able-bodied to the full and free use of the streets, highways, sidewalks, walkways, public buildings, public facilities, and all other buildings and facilities, both publicly and privately owned, which serve the public.

"§ 168-3. *Right to use of public conveyances, accommodations, etc.*—The handicapped and physically disabled are entitled to accommodations, advantages, facilities, and privileges of all common carriers, airplanes, motor vehicles, railroad trains, motor buses, streetcars, boats, or any other public conveyances or modes of transportation; hotels, lodging places, places of public accommodation, amusement or resort to which the general public is invited, subject only to the conditions and limitations established by law and applicable alike to all persons.

"§ 168-4. *May be accompanied by guide dog.*—Every visually handicapped person shall have the right to be accompanied by a guide dog, especially trained for the purpose, in any of the places listed in G.S. 168-3 provided that he shall be liable for any damage done to the premises or facilities by such dog.

"§ 168-5. *Traffic and other rights of persons using certain canes.*—The driver of a vehicle approaching a visually handicapped pedestrian who is carrying a cane predominantly white or silver in color (with or without a red tip) or using a guide dog shall take all necessary precautions to avoid injury to such pedestrian.

"§ 168-6. *Right to employment.*—Handicapped persons shall be employed in the State service, the service of the political subdivisions of the State, in the public schools, and in all other employment, both public and private, on the same terms and conditions as the able-bodied, unless it is shown that the particular disability impairs the performance of the work involved.

"§ 168-7. *Guide dogs.*—Every visually handicapped person who has a guide dog, or who obtains a guide dog, shall be entitled to keep the guide dog on the premises leased, rented or used by such handicapped person. He shall not be required to pay extra compensation for such guide dog but shall be liable for any damage done to the premises by such a guide dog.

"§ 168-8. *Right to habilitation and rehabilitation services.*—Handicapped persons shall be entitled to such habilitation and rehabilitation services as available and needed for the development or restoration of their capabilities to the fullest extent possible. Such services shall include, but not be limited to, education, training, treatment and other services to provide for adequate food, clothing, housing and transportation during the course of education, training and treatment. Handicapped persons shall be entitled to these rights subject only to the conditions and limitations established by law and applicable alike to all persons."

Sec. 2. G.S. 67-29, as it appears in Volume 2C of the General Statutes, is hereby repealed.

Sec. 3. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 14th day of May, 1973.

H. B. 710

CHAPTER 494

AN ACT TO AMEND CHAPTER 780 OF THE 1971 SESSION LAWS, IN ORDER TO MAKE TECHNICAL AMENDMENTS TO SUBCHAPTER IV OF G.S. CHAPTER 159, AS ENACTED BY CHAPTER 780, AND TO MAKE CORRESPONDING AMENDMENTS TO EXISTING CHAPTERS OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. Each time G.S. Chapter 159 is amended in this act, the amendment is to Chapter 159 as enacted by Section 1 of Chapter 780 of the 1971 Session Laws and as G.S. Chapter 159 appears in Chapter 780.

Sec. 2. G.S. 159-43(b) is amended by rewriting the second sentence thereof to read as follows:

“To this end, all provisions of special, local, or private acts in effect as of July 1, 1973, authorizing the issuance of bonds or notes secured by a pledge of the taxing power or prescribing procedures therefor are repealed. No special, local, or private act enacted or taking effect after July 1, 1973, may be construed to modify, amend, or repeal any portion of this Article unless it expressly so provides by specific reference to the appropriate section of this Article.”

Sec. 3. G.S. 159-44 is amended by rewriting paragraph (1) as follows:

“(1) ‘Unit’, ‘unit of local government’, or ‘local government’ means counties; cities, towns, and incorporated villages; sanitary districts; mosquito control districts; hospital districts; metropolitan sewerage districts; and metropolitan water districts.”

Sec. 4. G.S. 159-48 is rewritten to read as follows:

“§ 159-48. *For what purposes bonds may be issued.*—(a) Each unit of local government is authorized to borrow money and issue its bonds under this Article in evidence thereof for any one or more of the following purposes:

- (1) To suppress riots, insurrections, or any extraordinary breach of law and order.
- (2) To supply an unforeseen deficiency in the revenue when taxes actually received or collected during the fiscal year fall below collection estimates made in the annual budget ordinance within the limits prescribed in G.S. 159-13.
- (3) To meet emergencies threatening the public health or safety, as conclusively determined in writing by the Governor.
- (4) To refund outstanding revenue bonds or revenue bond anticipation notes.
- (5) To refund outstanding general obligation bonds or general obligation bond anticipation notes.
- (6) To fund judgments for specified sums of money entered against the unit by a court of competent jurisdiction.
- (7) To fund valid, existing obligations of the unit not incurred by the borrowing of money.

(b) Each county and city is authorized to borrow money and issue its bonds under this Article in evidence thereof for the purpose of paying any capital costs of any one or more of the following:

- (1) Providing airport facilities, including without limitation related land,

- landing fields, runways, clear zones, lighting, navigational and signal systems, hangars, terminals, offices, shops, and parking facilities.
- (2) Providing armories for the North Carolina National Guard.
 - (3) Providing auditoriums, coliseums, arenas, stadiums, civic centers, convention centers, and facilities for exhibitions, athletic and cultural events, shows, and public gatherings.
 - (4) Providing beach improvements, including without limitation jetties, seawalls, groins, moles, sand dunes, vegetation, additional sand, pumps and related equipment, and drainage channels, for the control of beach erosion and the improvement of beaches.
 - (5) Providing cemeteries.
 - (6) Providing facilities for fire fighting and prevention, including without limitation headquarters buildings, station buildings, training facilities, hydrants, alarm systems, and communications systems.
 - (7) Providing hospital facilities, including without limitation general, tuberculosis, mental, chronic disease, and other types of hospitals and related facilities such as laboratories, outpatient departments, nurses' homes and training facilities, and central service facilities operated in connection with hospitals; facilities for the provision of public health services, including related facilities such as laboratories, clinics, and administrative offices; facilities specially designed for the diagnosis, treatment, education, training, or custodial care of the mentally retarded, including facilities for training specialists and sheltered workshops for the mentally retarded; nursing homes; and in connection with the foregoing, laundries, nurses', doctors', or interns' residences, administrative buildings, research facilities, maintenance, storage, and utility facilities, auditoriums, dining halls, food service and preparation facilities, fire prevention facilities, mental and physical health care facilities, dental care facilities, nursing schools, mental teaching facilities, offices, parking facilities, and other supporting service structures.
 - (8) Providing land for corporate purposes.
 - (9) Providing facilities for law enforcement, including without limitation headquarters buildings, station buildings, jails and other confinement facilities, training facilities, alarm systems, and communications systems.
 - (10) Providing library facilities, including without limitation fixed and mobile libraries.
 - (11) Providing art galleries, museums, and art centers, and providing for historic properties.
 - (12) Providing parking facilities, including on and off-street parking, and in connection therewith any area or place for the parking and storing of automobiles and other vehicles open to public use, with or without charge, including without limitation meters, buildings, garages, driveways, and approaches.
 - (13) Providing parks and recreation facilities, including without limitation land, athletic fields, parks, playgrounds, recreation centers, shelters, stadiums, arenas, permanent and temporary stands, golf courses, swimming pools, wading pools, marinas, and lighting.
 - (14) Providing public buildings, including without limitation buildings

housing courtrooms, other court facilities, and council rooms, office buildings, public markets, public comfort stations, warehouses, and yards.

- (15) Providing public vehicles, including without limitation those for law enforcement, fire fighting and prevention, sanitation, street paving and maintenance, safety and public health, and other corporate purposes.
 - (16) Providing for redevelopment through the acquisition of land and the improvement thereof for assisting local redevelopment commissions.
 - (17) Providing sanitary sewer systems, including without limitation facilities for the collection, treatment, and disposal of sewage.
 - (18) Providing solid waste disposal systems, including without limitation land for sanitary land fills, incinerators, and other structures and buildings.
 - (19) Providing storm sewers and flood control facilities, including without limitation levees, dikes, diversionary channels, drains, catch basins, and other facilities for storm water drainage.
 - (20) Providing voting machines.
 - (21) Providing water systems, including without limitation facilities for the supply, storage, treatment, and distribution of water.
 - (22) Providing for any other purpose for which it is authorized, by general laws uniformly applicable throughout the State, to raise or appropriate money, except for current expenses.
- (c) Each county is authorized to borrow money and issue its bonds under this Article in evidence thereof for the purpose of, in the case of paragraphs (1) to (4), inclusive, paying any capital costs of any one or more of the purposes mentioned therein and, in the case of paragraph (5), to finance the cost thereof:
- (1) Providing community college and technical institute facilities, including without limitation buildings, plants, and other facilities, physical and vocational educational buildings and facilities, including in connection therewith classrooms, laboratories, libraries, auditoriums, administrative offices, student unions, dormitories, gymnasiums, athletic fields, cafeterias, utility plants, and garages.
 - (2) Providing courthouses, including without limitation offices, meeting rooms, court facilities and rooms, and detention facilities.
 - (3) Providing county homes for the indigent and infirm.
 - (4) Providing school facilities, including without limitation school houses, buildings, plants and other facilities, physical and vocational educational buildings and facilities, including in connection therewith classrooms, laboratories, libraries, auditoriums, administrative offices, gymnasiums, athletic fields, lunch rooms, utility plants, garages, and school buses and other necessary vehicles.
 - (5) Providing for the octennial revaluation of real property for taxation.
- (d) Each city is authorized to borrow money and issue its bonds under this Article in evidence thereof for the purpose of paying any capital costs of any one or more of the following:
- (1) Providing mass transit facilities, including without limitation equipment for public transportation, buses, surface and below ground railways, ferries, and garage facilities.

- (2) Providing cable television systems.
- (3) Providing electric systems, including without limitation facilities for the generation, transmission, and distribution of electric light and power.
- (4) Providing gas systems, including without limitation facilities for the storage, transmission and distribution of gas.
- (5) Providing streets and sidewalks, including without limitation bridges, viaducts, causeways, overpasses, underpasses, and alleys; paving, grading, resurfacing, and widening streets; sidewalks, curbs and gutters, culverts, and drains; traffic controls, signals, and markers; lighting; and grade crossings and the elimination thereof and grade separations.

(e) Each sanitary district, mosquito control district, hospital district, metropolitan sewerage district, and metropolitan water district is authorized to borrow money and issue its bonds under this Article in evidence thereof for the purpose of paying any capital costs of any one or more of the purposes for which it is authorized, by general laws uniformly applicable throughout the State, to raise or appropriate money, except for current expenses.

(f) For any of the purposes authorized by subsections (b), (c), (d), or (e) of this section, a unit may do any of the following that it considers necessary or convenient:

- (1) Acquire, construct, erect, provide, develop, install, furnish, and equip; and
- (2) Reconstruct, remodel, alter, renovate, replace, refurbish, and re-equip; and
- (3) Enlarge, expand, and extend; and
- (4) Demolish, relocate, improve, grade, drain, landscape, pave, widen, and resurface.

(g) Bonds for two or more unrelated purposes, not of the same general class or character, shall not be authorized by the same bond order. However, bonds for any of the purposes listed in any paragraph of any subsection of this section shall be deemed to be for one purpose and may be authorized by the same bond order. In addition, nothing herein may be deemed to prohibit the combining of purposes from any of such paragraphs and the authorization of bonds therefor by the same bond order to the extent that the purposes are not unrelated.

(h) As used in this section, 'capital costs' include, without limitation, the following:

- (1) The costs of doing any or all of the things mentioned in subsection (f) of this section; and
- (2) The costs of all property, both real and personal and both improved and unimproved, plants, works, appurtenances, structures, facilities, furnishings, machinery, equipment, vehicles, easements, water rights, franchises, and licenses used or useful in connection with the purpose authorized; and
- (3) The costs of demolishing or moving structures from land acquired and acquiring any lands to which such structures are to be moved; and
- (4) Financing charges, including estimated interest during construction and for six months thereafter; and
- (5) The costs of plans, specifications, studies and reports, surveys, and estimates of costs and revenues; and
- (6) The costs of bond printing and insurance; and

(7) Administrative and legal expenses; and

(8) Any other services, costs, and expenses necessary or incidental to the purpose authorized.

(i) This section does not authorize any unit to undertake any program, function, joint undertaking, or service not otherwise authorized by law. It is intended only to authorize the borrowing of money and the issuance of bonds within the limitations set out herein to finance programs, functions, joint undertakings, or services authorized by other portions of the General Statutes or by city charters."

Sec. 5. G.S. 159-49 is rewritten to read as follows:

"§ 159-49. *When a vote of the people is required.*—Bonds may be issued under this Article only if approved by a vote of the qualified voters of the issuing unit as provided in this Article, except that voter approval shall not be required for:

(1) Bonds issued for any purpose authorized by G.S. 159-48(a)(1), (2), (3), or (5).

(2) Bonds issued by a county or city for any purpose authorized by G.S. 159-48(a)(4), (6), or (7) or G.S. 159-48(b), (c), or (d) (except purposes authorized by G.S. 159-48(b)(3), (11), (16), or (22) or by G.S. 159-48(d)(1) or (2)) in an aggregate principal sum not exceeding two-thirds of the amount by which the outstanding indebtedness of the issuing county or city has been reduced during the next preceding fiscal year. Pursuant to Article V, subsection 4(2) of the Constitution, the General Assembly hereby declares that the purposes authorized by G.S. 159-48(a)(4), (6), and (7) and by G.S. 159-48(b), (c), and (d) (except purposes authorized by G.S. 159-48(b)(3), (11), (16), or (22) or by G.S. 159-48(d)(1) or (2)) are purposes for which bonds may be issued without a vote of the people, to the extent of two-thirds of the amount by which the outstanding indebtedness of the issuing county or city was reduced in the last preceding fiscal year."

Sec. 6. G.S. 159-54 is amended as follows:

(a) Subparagraph (1) is rewritten to read as follows:

"(1) Briefly and generally and without specification of location or material of construction, the purpose for which the bonds are to be issued, but not more than one purpose may be stated. For funding or refunding bonds a brief description of the debt, judgment, or obligation to be funded or refunded shall be sufficient."

(b) Subparagraph (7) is rewritten to read as follows:

"(7) If the bonds are issued pursuant to G.S. 159-48(a)(1), (2), (3), or (5), that the bond order will take effect upon its adoption. If the bonds are to be issued pursuant to G.S. 159-48(a)(4), (6), or (7) or G.S. 159-48(b), (c), or (d) and are not to be submitted to the voters, that the bond order will take effect 30 days after its publication following adoption, unless it is petitioned to a vote of the people as provided in G.S. 159-60, and that in that event the order will take effect when approved by the voters."

(c) The third and final unnumbered paragraph of the section is deleted.

Sec. 7. (a) G.S. 159-55(a) is amended by rewriting subparagraph (1) to read as follows:

"(1) The gross debt of the unit, excluding therefrom debt incurred or to be incurred in anticipation of the collection of taxes or other revenues or in anticipation of the sale of bonds other than funding and refunding bonds. The gross debt (after exclusions) is the sum of (i) outstanding debt evidenced by

bonds, (ii) bonds authorized by orders introduced but not yet adopted, (iii) unissued bonds authorized by adopted orders, and (iv) outstanding debt not evidenced by bonds. However, for purposes of the sworn statement of debt and the debt limitation, revenue bonds shall not be considered debt and such bonds shall not be included in gross debt nor deducted from gross debt."

(b) G.S. 159-55(a)(2) is amended by rewriting subparagraphs f. and g. to read as follows:

"f. The amount of uncollected special assessments theretofore levied for local improvements for which any part of the gross debt (that is not otherwise deducted) was or is to be incurred, to the extent that the assessments will be applied, when collected, to the payment of any part of the gross debt.

g. The amount, as estimated by the governing board of the issuing unit or an officer designated by the board for this purpose, of special assessments to be levied for local improvements for which any part of the gross debt (that is not otherwise deducted) was or is to be incurred, to the extent that the special assessments, when collected, will be applied to the payment of any part of the gross debt."

Sec. 8. G.S. 159-60 is amended by rewriting the third paragraph to read as follows:

"This section does not apply to bonds issued pursuant to G.S. 159-48(a) (1), (2), (3), or (5)."

Sec. 9. (a) G.S. 159-61(b) is amended by rewriting the third sentence thereof to read as follows:

"A special bond referendum may not be held within 30 days before or 10 days after a statewide primary, election, or referendum, or within 30 days before or 10 days after any other primary, election, or referendum to be held in the same unit holding the bond referendum and already validly called or scheduled by law at the time the bond referendum is called."

(b) G.S. 159-61(d) is amended by rewriting the ballot question to read as follows:

"Shall the order authorizing \$_____ bonds for (briefly stating the purpose) be approved?

☐ YES

☐ NO."

(c) G.S. 159-61(e) is amended by rewriting the portion of the subsection within quotation marks to read as follows:

"Any action or proceeding challenging the regularity or validity of this bond referendum must be begun within 30 days

after _____
(date of publication).
(title of governing board)."

Sec. 10. G.S. 159-65 is amended by rewriting the section title and the first sentence, to read as follows:

"§ 159-65. *Resolution fixing the details of the bonds.*—After the bond order has been adopted, the board shall adopt a resolution fixing the details of the bonds."

Sec. 11. The first paragraph of G.S. 159-72 is rewritten as follows:

"§ 159-72. *Purposes for which funding and refunding bonds may be issued; when such bonds may be issued.*—A unit of local government may issue funding or refunding bonds for the purposes listed in G.S. 159-48(a)(4), (5), (6), or (7).

Funding or refunding bonds may be issued if the debt, judgment, or other obligation to be paid is payable at the time of the passage of the bond order or within one year thereafter, or if the debt or obligation to be refinanced is to be cancelled prior to its maturity and simultaneously with the issuance of the refunding bonds."

Sec. 12. G.S. 159-75 is amended by deleting the reference to "G.S. 159-76" in the second paragraph thereof and inserting in lieu thereof "G.S. 159-74."

Sec. 13. G.S. 159-76 is amended by rewriting the first sentence thereof, to read as follows:

"All bonds and notes issued before March 26, 1931, for which the issuing unit received an amount of money not less than the face amount of the bonds or notes and the proceeds of which have been spent for public purposes, and all bonds and notes subsequently issued to refund all or any portion of those bonds or notes, are hereby validated notwithstanding any lack of statutory authority or failure to observe any statutory provisions concerning the issuance of the bonds or notes."

Sec. 14. G.S. 159-80 is amended as follows:

(a) The title of the section is rewritten as follows: "Short title; repeal of local acts."

(b) The present paragraph is numbered subsection (a).

(c) A new paragraph, numbered subsection (b), is added as follows:

"(b) It is the intent of the General Assembly by enactment of this Article to prescribe a uniform system of limitations upon and procedures for the exercise by all municipalities in North Carolina of the power to finance revenue bond projects through the issuance of revenue bonds and notes. To this end, all provisions of special, local, or private acts in effect as of July 1, 1973, authorizing the issuance of bonds or notes secured solely by the revenues of the projects for which the bonds or notes are issued or prescribing procedures therefor are repealed. No special, local or private act enacted or taking effect after July 1, 1973, may be construed to modify, amend, or repeal any portion of this Article unless it expressly so provides by specific reference to the appropriate section of this Article."

Sec. 15. G.S. 159-81 is amended as follows:

(a) Paragraph (3)d. is rewritten as follows:

"d. Systems, facilities and equipment for the collection, treatment, or disposal of solid waste."

(b) Paragraph (4) is rewritten as follows:

"(4) 'Municipality' means a county, city, town, incorporated village, sanitary district, metropolitan sewerage district, metropolitan water district, water and sewer authority, hospital authority, hospital district, parking authority, and airport authority but not any other form of local government."

Sec. 16. G.S. 159-82 is amended by rewriting the second sentence thereof to read as follows:

"Its provisions are intended to vest authority in and enable municipalities to secure and pay revenue bonds and the interest thereon solely out of revenues without pledging the faith and credit of the municipality."

Sec. 17. G.S. 159-83(a) is amended as follows:

(a) Paragraph (1) is rewritten as follows:

“(1) To acquire by gift, purchase, or exercise of the power of eminent domain, or to construct, reconstruct, improve, maintain, better, extend, and operate, one or more revenue bond projects or any portion thereof without regard to location within or without its boundaries, upon determination by resolution of the governing board that a location wholly or partially outside its boundaries is necessary and in the public interest”.

(b) The second sentence of paragraph (6) is rewritten as follows: “The rates, fees, rentals, tolls, and charges so fixed and charged shall be such as will produce revenues at least sufficient with any other available funds to meet the expense of maintenance and operation of and renewals and replacements to the revenue bond project, including reserves therefor, to pay when due the principal, interest, and redemption premiums (if any) on all revenue bonds or bond anticipation notes secured thereby, and to fulfill the terms of any agreements made by the issuing municipality with the holders of revenue bonds issued to finance all or any portion of the cost of the project”.

(c) Paragraph (7) is rewritten as follows:

“(7) To pledge all or part of any proceeds derived from the use of on-street parking meters to the payment of the cost of operating, maintaining, and improving parking facilities whether on-street or off-street, and the principal of and the interest on revenue bonds or bond anticipation notes issued for on-street or off-street parking facilities.”

(d) Paragraph (8) is rewritten to read as follows:

“(8) To pledge to the payment of its revenue bonds or bond anticipation notes and interest thereon revenues from one or more revenue bond projects and any leases or agreements to secure such payment, including revenues from improvements, betterments, or extensions to such projects thereafter constructed or acquired as well as the revenues from existing systems, plants, works, instrumentalities, and properties of the projects to be improved, bettered, or extended.”

Sec. 18. G.S. 159-85 is amended as follows:

(a) In the first paragraph of the section, the word “unit”, which appears in the second and third sentences, is deleted each time it appears and the word “municipality” inserted in its stead.

(b) In the third paragraph of the section, the word “unit”, which appears in each sentence in the paragraph, is deleted each time it appears and the word “municipality” inserted in its stead.

Sec. 19. G.S. 159-88 is rewritten to read as follows:

“§ 159-88. *Adoption of revenue bond order.*—At any time after the Commission approves an application for the issuance of revenue bonds, the governing board of the issuing municipality may adopt a revenue bond order pursuant to this Article.

Notwithstanding the provisions of any city charter, general law, or local act, a revenue bond order may be introduced at any regular or special meeting of the governing board and adopted at such a meeting by a simple majority of those present and voting, a quorum being present, and need not be published or subjected to any procedural requirements governing the adoption of ordinances or resolutions by the governing board other than the procedures set out in this Article. Revenue bond orders are not subject to the provisions of any city charter or local act concerning initiative or referendum.”

Sec. 20. G.S. 159-93 is rewritten to read as follows:

“§ 159-93. *Agreement of the State.*—The State of North Carolina does pledge to and agree with the holders of any revenue bonds or revenue bond anticipation notes heretofore or hereafter issued by any municipality in this State that so long as any of such bonds or notes are outstanding and unpaid the State will not limit or alter the rights vested in the municipality at the time of issuance of the bonds or notes to establish, maintain, revise, charge, and collect such rates, fees, rentals, tolls, and other charges for the use, services, facilities, and commodities of or furnished by the revenue bond project in connection with which the bonds or notes, or bonds or notes refunded by the bonds or notes, were issued as shall produce revenues at least sufficient with other available funds to meet the expense of maintenance and operation of and renewals and replacements to such project, including reserves therefor, to pay when due the principal, interest, and redemption premiums (if any) of the bonds or notes, and to fulfill the terms of any agreements made with the bondholders or noteholders, nor will the State in any way impair the rights and remedies of the bondholders or noteholders until the bonds or notes and all costs and expenses in connection with any action or proceedings by or on behalf of the bondholders or noteholders, are fully paid, met, and discharged.”

Sec. 21. G.S. 159-95 is amended by striking all of the section after the words and punctuation “North Carolina Utilities Commission.”

Sec. 22. G.S. 159-121 is rewritten to read as follows:

“§ 159-121. *Coupon or registered bonds to be issued.*—Bonds may be issued as (i) coupon bonds payable to bearer, (ii) coupon bonds registrable as to principal only or as to both principal and interest, or (iii) bonds without coupons registered as to both principal and interest. Each issuing unit may appoint or designate a bond registrar who shall be charged with the duty of attending to the registration and the registration of transfer of bonds.”

Sec. 23. G.S. 159-122(a) is rewritten to read as follows:

“(a) Except as provided in this subsection, the last installment of each bond issue shall mature not later than the date of expiration of the period of usefulness of the capital project to be financed by the bond issue, computed from the date of the bonds. The last installment of a refunding bond issue issued pursuant to G.S. 159-48(a)(4) or (5) shall mature not later than either (i) the shortest period, but not more than 40 years, in which the debt to be refunded can be finally paid without making it unduly burdensome on the taxpayers of the issuing unit, as determined by the Commission, computed from the date of the bonds, or (ii) the end of the unexpired period of usefulness of the capital project financed by the debt to be refunded. The last installment of bonds issued pursuant to G.S. 159-48(a)(1),(2),(3),(6), or (7) shall mature not later than 10 years after the date of the bonds, as determined by the Commission. The last installment of bonds issued pursuant to G.S. 159-48(c)(5) shall mature not later than eight years after the date of the bonds, as determined by the Commission.”

Sec. 24. G.S. 159-129 is rewritten to read as follows:

“§ 159-129. *Obligations of units certified by Commission.*—Each bond or bond anticipation note shall bear on its face or reverse a certificate signed by the Secretary of the Commission or an assistant designated by him that the issuance of the bond or note has been approved under the provisions of The Local Government Bond Act or The Local Government Revenue Bond Act. The certificate shall be conclusive evidence that the requirements of this Subchapter

have been observed, and no bond or note without the Commission's certificate shall be valid."

Sec. 25. G.S. 159-130 is rewritten to read as follows:

"§ 159-130. *Record of issues kept.*—The Secretary shall make a record of all bonds and notes issued under this Subchapter, showing the name of the issuing unit, the amount, date, the time fixed for payment of principal and interest, the rate of interest, the place at which the principal and interest will be payable, the denominations, the purpose of issuance, the name of the board in which is vested the authority and power to levy taxes or raise other revenues for the payment of the principal and interest thereof, and a reference to the law under which the bonds or notes were issued. The clerk of the issuing unit shall file with the Secretary copies of all proceedings of the board in authorizing the bonds or notes, his certificate that they are correctly recorded in a bound book of the minutes and proceedings of the board, and a notation of the pages or other identification of the exact portion of the book in which the records appear."

Sec. 26. G.S. 159-131 is amended by rewriting the first two sentences to read as follows: "Any contract or agreement made by any unit with any person, firm, or corporation for services to be rendered in drafting forms of proceedings for a proposed bond issue or a proposed issue of notes shall be void unless approved by the Commission. Before giving its certificate to bonds or notes, the Commission shall satisfy itself, by such evidence as it may deem sufficient, that no unapproved contract is in effect."

Sec. 27. G.S. 159-133 is rewritten as follows:

"§ 159-133. *Suit to enforce contract of sale.*—The Commission may enforce in any court of competent jurisdiction any contract or agreement made by the Commission for the sale of any bonds or notes of a unit."

Sec. 28. G.S. 159-135 is amended by rewriting the first sentence to read as follows: "After payment of any notes issued in anticipation of the sale of the bonds and after payment of the cost of preparing, marketing, and issuing the bonds, the proceeds of the sale of a bond issue shall be applied only to the purposes for which the issue was authorized."

Sec. 29. G.S. 159-139 is amended as follows:

(a) The last sentence of "Method 1" is rewritten to read as follows: "Cancelled bonds, notes, or coupons shall not be destroyed until after one year from the date of payment."

(b) The last sentence of the first paragraph of "Method 2" is rewritten to read as follows: "Cancelled bonds or coupons shall not be destroyed until one year from the date of payment."

Sec. 30. G.S. Chapter 159, Article 7, is amended by adding a new section at the end thereof to read as follows:

"§ 159-140. *'Unit' defined.*—As used in this Article, unless the context clearly requires another meaning, the words 'unit' or 'issuing unit' mean 'unit of local government' as defined in G.S. 159-44 and 'municipality' as defined in G.S. 159-81."

Sec. 31. G.S. 159-148 is amended by rewriting the first sentence of subsection (a), up to but not including paragraph (1), to read as follows: "Except as provided in subsection (b) of this section, this Article applies to any contract, agreement, memorandum of understanding, and any other transaction having the force and effect of a contract (other than agreements made in connection with the issuance of revenue bonds or of general obligation bonds additionally

secured by a pledge of revenues) made or entered into by a unit of local government (as defined by G.S. 159-7(b)), relating to the lease, acquisition, or construction of capital assets, which contract”.

Sec. 32. G.S. 159-151(a) is amended by rewriting paragraph (8), to read as follows:

“(8) The unit’s appraised and assessed value of property subject to taxation.”

Sec. 33. G.S. 159-161 is amended as follows:

(a) The first sentence is rewritten, to read as follows: “At any time after a bond order has taken effect and with the approval of the Commission, the issuing unit may borrow money for the purposes for which the bonds are to be issued, in anticipation of the receipt of the proceeds of the sale of the bonds, and within the maximum authorized amount of the bond issue.”

(b) The second sentence is amended by striking the first word (“Bond”) and inserting in lieu thereof the words “General obligation bond”.

(c) The third sentence is rewritten, to read as follows: “Any extension of the time for issuing bonds under a bond order granted by act of the General Assembly pursuant to G.S. 159-64 shall also extend the time for issuing and paying notes under this section for the same period of time.”

Sec. 34. G.S. 159-164 is amended by striking the third sentence thereof and inserting in lieu thereof the following: “The governing board may authorize the issuance of bond anticipation notes by resolution which shall fix the maximum aggregate principal amount of the notes and may authorize any officer to fix, within the limitations prescribed by the resolution, the rate of interest, the place or places of payment, and the denomination or denominations of the notes. The notes shall be signed with the manual or facsimile signatures of officers designated by the governing board for that purpose, but at least one manual signature must appear on each note (which may be the signature of the representative of the Commission to the Commission’s certificate).”

Sec. 35. G.S. 159-165 is rewritten as follows:

“§ 159-165. *Sale and delivery of bond anticipation notes.*—(a) Bond anticipation notes shall be sold by the Commission at public or private sale according to such procedures as the Commission may prescribe.

(b) When the bond anticipation notes are executed, they shall be delivered to the State Treasurer who shall deliver them to the order of the purchaser and collect the purchase price or proceeds. The Treasurer shall then deduct from the proceeds the Commission’s expense in connection with the issue, and remit the net proceeds to the official depository of the unit after assurance that the deposit will be adequately secured as required by law. The net proceeds of revenue bond anticipation notes shall be remitted to the trustee or other depository specified in the trust agreement or resolution securing them. If the notes have been issued to renew outstanding notes, the Treasurer, in lieu of collecting the purchase price or proceeds may provide for the exchange of the newly issued notes for the notes to be renewed.”

Sec. 36. G.S. Chapter 159, Article 9, is amended by inserting a new section, numbered G.S. 159-166, to read as follows:

“§ 159-166. *‘Unit’ defined.*—As used in this Part, the words ‘unit’ or ‘issuing unit’ mean ‘unit of local government’ as defined in G.S. 159-44 and ‘municipality’ as defined in G.S. 159-81.”

Sec. 37. G.S. 159-169(b) is amended by rewriting that portion of the second sentence inside quotation marks, to read as follows:

"This note and all other tax anticipation notes of (issuing unit) authorized or outstanding as of (date) amount to fifty percent (50%) or less of the amount of taxes for the current fiscal year uncollected as of the above date."

Sec. 38. G.S. 159-170(b) is amended by rewriting that portion of the second sentence inside quotation marks, to read as follows:

"This note and all other revenue anticipation notes of (issuing unit) authorized or outstanding as of (date) amount to eighty percent (80%) or less of the budgeted nontax revenues for the current fiscal year as of the above date."

Sec. 39. G.S. 159-172 is rewritten to read as follows:

"§ 159-172. *Authorization and issuance of notes.*—(a) Notes issued under G.S. 159-169 and 159-170 shall be authorized by resolution of the governing board of the issuing unit. The resolution shall fix the maximum aggregate principal amount of notes to be issued thereunder, and may authorize any officer to fix, within the limitations prescribed by the resolution, the rate of interest, the place or places of payment, and the denomination or denominations of the notes. The notes shall be signed with the manual or facsimile signatures of officers designated by the governing board for that purpose, but at least one manual signature must appear on each note (which may be the signature of the representative of the Commission to the Commission's certificate). Several notes may be issued under one authorization so long as the aggregate principal amount of notes outstanding at any one time does not exceed the limits of the authorization.

(b) Before any notes may be issued pursuant to this Part, they must be approved by the Commission. In determining whether to approve the issuance of notes, the Commission may consider (i) the reasonableness of the budget estimates of the taxes or other revenues in anticipation of which the notes are to be issued, (ii) whether the amount of the notes, together with the amount of other authorized or outstanding notes issued or to be issued in anticipation of the same taxes or other revenues, exceeds the limitations prescribed in G.S. 159-169 or 159-170, as the case may be, and (iii) any other matters that the Commission considers to have a bearing on whether the issue should be approved. The Commission shall approve the issuance of the notes if, upon the information and evidence it receives, it finds and determines that (i) the issue is necessary and expedient, (ii) the budget estimates of the taxes or other revenues are reasonable, and (iii) the amount of the notes, together with the amounts of other authorized or outstanding notes issued or to be issued in anticipation of the same taxes or other revenues, do not exceed the appropriate limitations prescribed by this Part. An order approving an issue shall not be regarded as an approval of the legality of the notes in any respect.

(c) Notes issued under G.S. 159-169 and 159-170 shall be sold by the Commission at public or private sale according to such procedures as the Commission may prescribe. Each such note shall bear on its face or reverse a certificate signed by the Secretary of the Commission or an assistant designated by him that the issuance of the note has been approved under the provisions of The Local Government Finance Act. The certificate is conclusive evidence that the requirements of this Part have been observed, and no note without the Commission's certificate is valid.

(d) When the notes are executed, they shall be delivered to the State Treasurer who shall deliver them to the order of the purchaser and collect the purchase price or proceeds. The Treasurer shall then deduct from the proceeds

the Commission's expense in connection with the issue, and remit the net proceeds to the official depository of the unit after assurance that the deposit will be adequately secured as required by law. If the notes have been issued to renew outstanding notes, the Treasurer, in lieu of collecting the purchase price or proceeds, may provide for the exchange of the newly issued notes for the notes to be renewed."

Sec. 40. G.S. Chapter 159, Article 9 is amended by adding a new section, numbered G.S. 159-173, to read as follows:

"§ 159-173. *'Unit' defined.*—For purposes of this Part, 'unit', 'unit of local government', or 'issuing unit' mean a 'unit of local government' as defined by G.S. 159-7(b) and a 'public authority' as defined by G.S. 159-7(b)."

Sec. 41. (a) G.S. 159-176 is amended near the end of the first sentence, twice in the second sentence, in the fifth sentence, and in the sixth sentence, by inserting immediately after the word "unit" each time it appears the words "or municipality".

(b) G.S. 159-177 is amended in the second sentence by inserting immediately after the word "unit" the words "or municipality".

(c) G.S. 159-178 is amended by inserting immediately after the word "unit" each of the two times it appears the words "or municipality".

(d) G.S. 159-176 is amended in the first sentence by inserting immediately after the word "unit's" the words "or municipality's".

(e) G.S. 159-177 is amended in the first sentence by inserting immediately after the word "unit's" each of the two times it appears the words "or municipality's".

(f) G.S. 159-178 is amended by inserting immediately after the word "unit's" the words "or municipality's".

Sec. 42. G.S. 159-177 is amended by inserting immediately after the word "budget" the first, second, and fourth times it appears in the section the word "ordinance".

Sec. 43. G.S. 159-181(a) and (b) are rewritten as follows:

"(a) If any finance officer, governing board member, or other officer or employee of any local government or public authority (as local government and public authority are defined in G.S. 159-7(b)) shall approve any claim or bill knowing it to be fraudulent, erroneous, or otherwise invalid, or make any written statement, give any certificate, issue any report, or utter any other document required by this Chapter, knowing that any portion of it is false, or shall willfully fail or refuse to perform any duty imposed upon him by this Chapter, he is guilty of a misdemeanor and upon conviction shall be fined not more than one thousand dollars (\$1,000) and forfeits his office, and shall be personally liable in a civil action for all damages suffered thereby by the unit or authority or the holders of any of its obligations.

(b) If any person embezzles any funds belonging to any local government or public authority, or appropriates to his own use any personal property having a value of more than fifty dollars (\$50.00) belonging to any local government or public authority, in addition to the crimes and punishment otherwise provided by law, upon conviction he forfeits his office or position and is forever thereafter barred from holding any office or place of trust or profit under the State of North Carolina or any political subdivisions thereof until the disability is removed in the manner provided for restoration of citizenship in Chapter 13 of the General Statutes."

Sec. 44. G.S. 159-182 is amended by rewriting the first sentence, to read as follows:

"If an officer or employee of a local government or public authority persists, after notice and warning from the Commission, in failing or refusing to comply with any provision of this Chapter, he forfeits his office or employment. The Commission may enter an order suspending the offender from further performance of his office or employment after first giving him notice and an opportunity to be heard in his own defense, pending the outcome of quo warranto proceedings."

Sec. 45. Chapter 780 of the 1971 Session Laws is amended by adding thereto a new section, numbered Section 37.4, to read as follows:

"Sec. 37.4(a). G.S. 131-126.33 is rewritten as follows:

"§ 131-126.33. *District is a municipal corporation.*—The inhabitants of a hospital district created pursuant to this Article are a body corporate and politic by the name specified by the North Carolina Medical Care Commission. Under that name they are vested with all the property and rights of property belonging to the corporation; have perpetual succession; may sue and be sued; may contract and be contracted with; may acquire and hold any property, real and personal, devised, bequeathed, sold, or in any manner conveyed, dedicated to, or otherwise acquired by them, and from time to time may hold, invest, sell, or dispose of the same; may have a common seal and alter and renew it at will; and may exercise those powers conferred on them by this Article."

(b) G.S. 131-126.34 is rewritten as follows:

"§ 131-126.34. *Bonds and notes authorized.*—A hospital district may from time to time issue general obligation and revenue bonds and bond anticipation notes pursuant to The Local Government Finance Act, for the purposes of paying all or part of the cost of planning and acquiring, establishing, developing, constructing, enlarging, improving, or equipping any type of hospital, clinic, or public health center, including related facilities such as laboratories, outpatient departments, nurses' homes, and training facilities operated in connection with hospitals, and the cost of purchasing sites within the district for any one or more of these purposes, including any public or nonprofit hospital facility.

A hospital district may from time to time issue tax and revenue anticipation notes pursuant to G.S. Chapter 159, Article 9, Part 2."

(c) The following sections of G.S. Chapter 131 are repealed: G.S. 131-126.35, G.S. 131-126.36, G.S. 131-126.37, G.S. 131-126.38a, G.S. 131-126.40.

(d) G.S. 131-126.40b is amended by striking subsection (b) thereof and renumbering subsection (c) accordingly."

Sec. 46. Chapter 780 of the 1971 Session Laws is amended by adding thereto a new section, numbered Section 37.5, to read as follows:

"Sec. 37.5. (a) G.S. 162A-37 is rewritten as follows:

"§ 162A-37. *Bonds and notes authorized.*—A metropolitan water district may from time to time issue bonds and notes under The Local Government Finance Act."

(b) The following sections of G.S. Chapter 162A are repealed: G.S. 162A-38, G.S. 162A-39, G.S. 162A-40, G.S. 162A-41, G.S. 162A-42, G.S. 162A-43, G.S. 162A-44, G.S. 162A-46, G.S. 162A-47, G.S. 162A-48, G.S. 162A-50, G.S. 162A-51, G.S. 162A-52."

Sec. 47. Chapter 780 of the 1971 Session Laws is amended as follows:

(a) A new Section 40.1 is added, to read as follows:

"Sec. 40.1. This act does not invalidate or impair any bond order, bond ordinance, or bond resolution in effect on the effective date of this act, which bond order, ordinance, or resolution was adopted pursuant to any general law or special, private, or local act revised, superseded, or repealed by this act. Therefore, and in reliance on Article V, Section 4(6) of the Constitution of North Carolina, any bonds authorized by such a bond order, ordinance, or resolution, which bonds have not been issued nor advertised for sale by the effective date of this act, and any notes in anticipation of those bonds, may be issued on or after July 1, 1973, in accordance with the terms of the bond order, ordinance, or resolution and the provisions of G.S. Chapter 159, Articles 7 and 9, as enacted by Section 1 of this act."

(b) A new Section 41.1 is added, to read as follows:

"Sec. 41.1. If the governing board of a unit of local government or municipality as those terms are defined by G.S. Chapter 159, Subchapter IV, as enacted by Section 1 of this act, has under consideration, on the effective date of this act, a bond order, bond ordinance, or bond resolution that has been introduced but not yet adopted, the governing board may adopt the bond order, ordinance, or resolution under the provisions of the law under which it was introduced, even though that law is otherwise repealed or superseded by this act. The bonds authorized by such an order, ordinance, or resolution and any notes in anticipation of those bonds shall be issued pursuant to the provisions and procedures of G.S. Chapter 159, Articles 7 and 9, as enacted by Section 1 of this act."

(c) A new Section 41.2 is added to read as follows:

"Sec. 41.2. If The Local Government Commission has published notice of sale of bonds or bond anticipation notes prior to July 1, 1973, which bonds or notes are to be sold after July 1, 1973, or if bonds or bond anticipation notes have been sold prior to July 1, 1973, but will not be delivered until after July 1, 1973, the bonds or notes shall be sold and delivered, or delivered, as the case may be, in accordance with former G.S. Chapter 159, which is otherwise repealed by Section 1 of this act."

Sec. 48. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 14th day of May, 1973.

H. B. 1190

CHAPTER 495

AN ACT PROVIDING FOR REGULATION OF TRAFFIC AND PARKING AND THE REGISTRATION OF MOTOR VEHICLES ON THE CAMPUSES OF THE CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. Chapter 116 of the General Statutes of North Carolina is amended by inserting a new Part 4A in Article 1 thereof as follows:

"Part 4A. Traffic and Parking.

"§ 116-42. *Definitions.*—Unless the context clearly requires another meaning, the following words and phrases have the meanings indicated when used in this Part:

(1) 'Board of trustees' and 'constituent institution' have the meanings assigned in G.S. 116-2.

(2) 'University' means a constituent institution as defined in G.S. 116-2.

(3) 'University property' means property that is owned or leased in whole or in part by the State of North Carolina and which is subject to the general management and control of the Board of Governors of the University of North Carolina.

(4) 'Campus' means that University property, without regard to location, which is used wholly or partly for the purposes of a particular constituent institution of the University of North Carolina.

"§ 116-42.1. *Regulation of traffic and parking and registration of motor vehicles.*—(a) Except as otherwise provided in this Part, all of the provisions of Chapter 20 of the General Statutes relating to the use of highways of the State and the operation of motor vehicles thereon are applicable to all streets, alleys, driveways, parking lots, and parking structures on University property. Nothing in this section modifies any rights of ownership or control of University property, now or hereafter vested in the Board of Governors of the University of North Carolina or the State of North Carolina.

(b) Each board of trustees may by ordinance prohibit, regulate, divert, control, and limit pedestrian or vehicular traffic and the parking of motor vehicles and other modes of conveyance on the campus. In fixing speed limits, the board of trustees is not subject to G.S. 20-141(f1) or (g2), but may fix any speed limit reasonable and safe under the circumstances as conclusively determined by the board of trustees. The board of trustees may not regulate traffic on streets open to the public as of right, except as specifically provided in this Part.

(c) Each board of trustees may by ordinance provide for the registration of motor vehicles maintained or operated on the campus by any student, faculty member, or employee of the University, and may fix fees for such registration. The ordinance may make it unlawful for any person to operate an unregistered motor vehicle on the campus when the vehicle is required by the ordinance to be registered.

(d) Each board of trustees may by ordinance set aside parking lots and other parking facilities on the campus for use by students, faculty, and employees of the University and members of the general public attending schools, conferences, or meetings at the University, visiting or making use of any University facilities, or attending to official business with the University. The board of trustees may issue permits to park in these lots and garages and may charge a fee therefor. The board of trustees may also by ordinance make it unlawful for any person to park a motor vehicle in any lot or other parking facility without procuring the requisite permit and displaying it on the vehicle.

(e) Each board of trustees may by ordinance set aside spaces in designated parking areas or facilities in which motor vehicles may be parked for specified periods of time. To regulate parking in such spaces, the board of trustees may install a system of parking meters and make it unlawful for any person to park a motor vehicle in a metered space without activating the meter for the entire time that the vehicle is parked, up to the maximum length of time allowed for that space. The meters may be activated by coins of the United States. The board of trustees may also install automatic gates, employ attendants, and use any other device or procedure to control access to and collect the fees for using its parking areas and facilities.

(f) The board of trustees may by ordinance provide for the issuance of stickers, decals, permits, or other indicia representing the registration status of vehicles or the eligibility of vehicles to park on the campus and may by ordinance prohibit the forgery, counterfeiting, unauthorized transfer, or unauthorized use of them.

(g) Violation of an ordinance adopted under any portion of this Part is a misdemeanor punishable by a fine of not more than fifty dollars (\$50.00) or imprisonment for not more than 30 days, in the discretion of the court. An ordinance may provide that certain acts prohibited thereby shall not be enforced by criminal sanctions, and in such cases a person committing any such act shall not be guilty of a misdemeanor.

(h) An ordinance adopted under any portion of this Part may provide that violation subjects the offender to a civil penalty. Penalties may be graduated according to the seriousness of the offense or the number of prior offenses by the person charged. Each board of trustees may establish procedures for the collection of these penalties and they may be enforced by civil action in the nature of debt. The board of trustees may also provide for appropriate administrative sanctions if an offender does not pay a validly due penalty or upon repeated offenses. Appropriate administrative sanctions include, but are not limited to, revocation of parking permits, termination of vehicle registration, and termination or suspension of enrollment in or employment by the University.

(i) An ordinance adopted under any portion of this Part may provide that any vehicle illegally parked may be removed to a storage area. The cost of any such removal constitutes a lien on the vehicle that may be enforced in the manner provided by law for enforcement of mechanics' and material-men's liens.

(j) Evidence that a motor vehicle was found parked or unattended in violation of an ordinance of the board of trustees is prima facie evidence that the vehicle was parked by:

- (1) the person holding a University parking permit for the vehicle, or
- (2) if no University parking permit has been issued for the vehicle, the person in whose name the vehicle is registered with the University pursuant to subsection (c), or
- (3) if no University parking permit has been issued for the vehicle and the vehicle is not registered with the University, the person in whose name it is registered with the North Carolina Department of Motor Vehicles or the corresponding agency of another state or nation.

The rule of evidence established by this subsection applies only in civil, criminal, or administrative actions or proceedings concerning violations of ordinances of the board of trustees. G.S. 20-162.1 does not apply to such actions or proceedings.

(k) Each board of trustees shall cause to be posted appropriate notice to the public of applicable traffic and parking restrictions.

(1) All ordinances adopted under this Part shall be recorded in the minutes of the board of trustees and copies thereof shall be filed in the offices of the President of The University of North Carolina and the Secretary of State. Each board of trustees shall provide for printing and distributing copies of its traffic and parking ordinances.

(m) All monies received pursuant to this Part shall be placed in a trust account in each constituent institution and may be used for any of the following purposes:

- (1) to defray the cost of administering and enforcing ordinances adopted under this Part;
- (2) to develop, maintain, and supervise parking areas and facilities;
- (3) to provide bus service or other transportation systems and facilities, including payments to any public or private transportation system serving University students, faculty, or employees;
- (4) as a pledge to secure revenue bonds for parking facilities issued under Article 21 of this Chapter;
- (5) other purposes related to parking, traffic, and transportation on the campus.

“§116-42.2 *Special provisions applicable to identified constituent institutions of The University of North Carolina.*—In addition to the powers granted by G.S. 116-42.1, the Board of Trustees of each of the constituent institutions enumerated hereinafter shall have the additional powers prescribed:

(a) The Board of Trustees of the University of North Carolina at Chapel Hill may by ordinance prohibit, regulate, and limit the parking of motor vehicles on those portions of the following public streets in the Town of Chapel Hill where parking is not prohibited by an ordinance of the Town of Chapel Hill:

- (1) Battle Lane;
- (2) Country Club Road, between Raleigh Street and South Road;
- (3) Manning Drive;
- (4) McCauley Street, between Columbia Street and Pittsboro Street;
- (5) Pittsboro Street, between South Columbia Street and Cameron Avenue;
- (6) Boundary Street, between Country Club Road and East Franklin Street;
- (7) Park Place, between Boundary Street and East Franklin Street;
- (8) South Columbia Street, between Franklin Street and Manning Drive;
- (9) Cameron Avenue, between South Columbia Street and Raleigh Street;
- (10) Raleigh Street;
- (11) Ridge Road;
- (12) South Road, between Columbia Street and Country Club Road.

In addition, the Board of Trustees of the University of North Carolina at Chapel Hill may regulate traffic on Cameron Avenue, between Raleigh Street and South Columbia Street, and on Raleigh Street, in any manner not inconsistent with ordinances of the Town of Chapel Hill.

(b) The Board of Trustees of Appalachian State University may by ordinance prohibit, regulate, and limit the parking of motor vehicles on those portions of the following public streets in the Town of Boone where parking is not prohibited by an ordinance of the Town of Boone:

- (1) Faculty Street, between U. S. 221-U. S. 321 (Hardin Street) and Water Street;
- (2) Stadium Drive, between Faculty Street and Fernclift Drive;
- (3) College Street, between U. S. 421-U. S. 321 (King Street) and Locust Street;
- (4) Appalachian Street, between Locust Street and Howard Street;

(5) Brown Street, between Locust Street and Howard Street.

(c) The Board of Trustees of the University of North Carolina at Charlotte may by ordinance prohibit, regulate, and limit the parking of motor vehicles on those portions of the following public roads in the County of Mecklenburg where parking is not prohibited by ordinance or other source of legal regulation of the County of Mecklenburg or other governmental entity with jurisdiction to regulate parking on such public road:

(1) Mary Alexander Boulevard (State Road Number 2834), between its intersection with N. C. Highway 49 and its intersection with Mallard Creek Church Road.

In addition, the Board of Trustees of the University of North Carolina at Charlotte may regulate traffic on Mary Alexander Boulevard (State Road Number 2834), between its intersection with N. C. Highway 49 and its intersection with Mallard Creek Church Road, in any manner not inconsistent with any ordinances or other sources of legal regulation of the County of Mecklenburg or other governmental entity with jurisdiction to regulate traffic on such public road.

(d) This section does not diminish the authority of any affected municipality, county or other governmental entity to prohibit parking on any public street or road listed herein. It is intended only to authorize the respective Boards of Trustees of the constituent institutions identified hereinabove to further prohibit, regulate, and limit parking on certain public streets and roads running through or adjacent to the campuses of the constituent institutions where parking is not prohibited by ordinance or other law of any affected municipality, county or other governmental entity. When an ordinance or other law of an affected municipality, county or other governmental entity is adopted to prohibit parking on any portion of any public street or road then regulated by an ordinance of a Board of Trustees, the ordinance of the Board of Trustees is superseded and the University, upon request of the municipality, county or other governmental entity, shall immediately remove any signs, devices, or markings erected or placed by the University on that portion of the street or road pursuant to the superseded ordinance.

Sec. 2. G.S. 116-42, 116-42.1, 116-42.2, 116-42.3 and 116-42.4, as they appear in the 1971 Additional Supplement to the General Statutes, are repealed.

Sec. 3. All ordinances, rules, and regulations adopted before the effective date of this act, under authority of G.S. 116-42, 116-42.1, 116-42.2, 116-42.3 and 116-42.4, as those sections read immediately before the effective date of this act, shall remain in full force and effect until altered pursuant to authority conferred by this act.

Sec. 4. If a provision of this act or the application of a provision thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Sec. 5. No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act is abated or otherwise affected by the adoption of this act.

Sec. 6. All laws and clauses of laws in conflict with this act are repealed.

Sec. 7. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of May, 1973.

S. B. 406

CHAPTER 496

AN ACT TO AMEND G.S. 136-30.1 PERTAINING TO EDGE LINE MARKING ON STATE HIGHWAYS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-30.1 as same appears in the 1971 Cumulative Supplement to Volume 3B of the General Statutes of North Carolina is hereby amended by striking the figure "200" appearing in line 4 and inserting in lieu thereof the figure "100".

Sec. 2. In subsection (c) of G.S. 136-30.1, delete the words "of Commerce, Bureau of Public Roads, dated June 1, 1961," and add in lieu thereof the following: "of Transportation, Federal Highway Administration, 1971,".

Sec. 3. This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of May, 1973.

S. B. 472

CHAPTER 497

AN ACT TO PERMIT FILING OF SECURITIES BY ISSUE AND THE ESTABLISHMENT AND USE OF A SECURITIES CLEARING CORPORATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 36-32 is revised to read as follows:

"§ 36-32. *Banks holding securities in name of nominee.*—A bank holding securities as fiduciary may hold them in the name of a nominee, without mention of the trust in the certificate or securities registration book. Provided, that

(1) The trust records and all reports or accounts rendered by the fiduciary clearly show the ownership of the securities by the fiduciary and the facts regarding its holdings;

(2) The nominee shall not have possession of the securities or access thereto except under the immediate supervision of the fiduciary or when such securities are deposited by the fiduciary in a clearing corporation as defined in G.S. 25-8-102(3).

The fiduciary shall personally be liable for any loss to the trust resulting from an act of such nominee in connection with such securities so held."

Sec. 2. A new section is hereby added to Chapter 36 of the General Statutes to read as follows:

"§ 36-32.1. *Bank and trust company assets kept separate; records of securities.*—Every trust company shall keep its trust assets separate and distinct from assets owned by the bank. The books and accounts of the trust company shall at all times show the ownership of all moneys, funds, investments, and property held by the company. Stock or other securities may be kept by the company in either of the following ways:

(1) All certificates representing the securities of an account may be held separate from those of all other accounts; or

(2) Certificates representing securities of the same class of the same issuer held for particular accounts may be held in bulk without certification as to ownership attached and, to the extent feasible, certificates of small denomination may be merged into one or more certificates of larger denomination, provided that the trust company, when operating under the method of safekeeping security certificates described in this paragraph, shall be subject to such rules and regulations as, in the case of State chartered institutions, the State Banking Commission and, in the case of national banking associations, the Comptroller of the Currency may from time to time issue and, upon demand by any person to whom it has a duty to account, it shall certify in writing the securities held by it for an account."

Sec. 3. G.S. 25-8-102(3) is rewritten to read as follows:

"§ 25-8-102. *Definitions and index of definitions.*—(3) A 'clearing corporation' is a corporation

(a) at least ninety percent (90%) of the capital stock of which is held by or for one or more persons (other than individuals), each of whom

(i) is subject to supervision or regulation pursuant to the provisions of federal or State banking laws or State insurance laws, or

(ii) is a broker or dealer or investment company registered under the Securities Exchange Act of 1934 or the Investment Company Act of 1940, or

(iii) is a national securities exchange or association registered under a statute of the United States such as the Securities Exchange Act of 1934, and none of whom, other than a national securities exchange or association, holds in excess of twenty percent (20%) of the capital stock of such corporation; and

(b) any remaining capital stock of which is held by individuals who have purchased such capital stock at or prior to the time of their taking office as directors of such corporation and who have purchased only so much of such capital stock as may be necessary to permit them to qualify as such directors."

Sec. 4. A new section is hereby added to Chapter 53 of the General Statutes to read as follows:

"§ 53-159.1. *Power of fiduciary or custodian to deposit securities in a clearing corporation.*—Notwithstanding any other provision of law, any fiduciary holding securities in its fiduciary capacity, any bank or trust company holding securities in a fiduciary capacity or as a custodian or agent is authorized to deposit or arrange for the deposit of such securities in a clearing corporation as defined in G.S. 25-8-102(3). When such securities are so deposited, certificates representing securities of the same class of the same issuer may be merged and held in bulk in the name of the nominee of such clearing corporation with any other such securities deposited in such clearing corporation by any person regardless of the ownership of such securities, and certificates of small denomination may be merged into one or more certificates of larger denomination. The records of such fiduciary and the records of such bank or trust company acting as a fiduciary or as a custodian or managing agent shall at all times show the name of the party for whose account the securities are so deposited. Title to such securities may be transferred by bookkeeping entry on the books of such clearing corporation without physical delivery of certificates representing such securities. A bank or trust company so depositing securities pursuant to this section shall be subject to such rules and regulations as, in the

case of State chartered institutions, the State Banking Commission and, in the case of national banking associations, the Comptroller of the Currency may from time to time issue. A bank or trust company acting as custodian or agent for a fiduciary shall, on demand by the fiduciary, certify in writing to the fiduciary the securities so deposited by such bank or trust company in such clearing corporation for the account of such fiduciary. A fiduciary shall, on demand by any party to a judicial proceeding for the settlement of such fiduciary's account or on demand by the attorney for such party, certify in writing to such party the securities deposited by such fiduciary in such clearing corporation for its account as such fiduciary. This section shall apply to any fiduciary holding securities in its fiduciary capacity, and to any bank or trust company holding securities as a fiduciary or as a custodian or managing agent acting on the effective date of this section or who thereafter may act regardless of the date of the agreement, instrument or court order by which it is appointed and regardless of whether or not such fiduciary, custodian or agent owns capital stock of such clearing corporation. The fiduciary shall personally be liable for any loss to the trust resulting from an act of such nominee in connection with such securities so deposited."

Sec. 5. G.S. 33-42.1 is revised to read as follows:

"§ 33-42.1. *Guardian to exhibit investments and bank statements.*—At the time the accounts required by this Article and other provisions of law are filed, the clerk of the superior court shall require the guardian to exhibit to the court all investments and bank statements showing cash balance, and the clerk of the superior court shall certify on the original account that an examination was made of all investments and the cash balance, and that the same are correctly stated in the account: Provided, such examination may be made by the clerk of the superior court of the county in which such guardian resides or the county in which such securities are located and, when the guardian is a duly authorized bank or trust company, such examination may be made by the clerk of the superior court of the county in which such bank or trust company has its principal office or in which such securities are located; the certificate of the clerk of the superior court of such county shall be accepted by the clerk of the superior court of any county in which such guardian is required to file an account; provided that banks, organized under the laws of North Carolina or the Acts of Congress, engaged in doing a trust and fiduciary business in this State, when acting as guardian, or in other fiduciary capacity, shall be exempt from the requirements of this section, when a certificate executed by a trust examiner employed by a governmental unit, by a bank's internal auditors who are responsible only to the bank's board of directors or by an independent certified public accountant who is responsible only to the bank's board of directors is exhibited to the clerk of the superior court and when said certificate shows that the securities are held by the fiduciary or by a clearing corporation for the fiduciary and when said certificate shows that the securities held by or for the fiduciary have been examined within one year."

Sec. 6. G.S. 34-10 is revised to read as follows:

"§ 34-10. *Guardian's accounts to be filed; hearing on accounts.*—Every guardian, who shall receive on account of his ward any moneys from the Bureau, shall file with the court annually, on the anniversary date of the appointment, in addition to such other accounts as may be required by the court, a full, true, and accurate account under oath of all moneys so received by him, of all

disbursements thereof, and showing the balance thereof in his hands at the date of such account and how invested. A certified copy of each of such accounts filed with the court shall be sent by the guardian to the office of the Bureau having jurisdiction over the area in which such court is located.

At the time such account is filed the clerk of the superior court shall require the guardian to exhibit to the court all investments and bank statements showing cash balance and the clerk of the superior court shall certify on the original account and the certified copy which the guardian sends the Bureau that an examination was made of all investments and cash balance and that same are correctly stated in the account; provided that banks, organized under the laws of North Carolina or the Acts of Congress, engaged in doing a trust and fiduciary business in this State, when acting as guardian, or in other fiduciary capacity, shall be exempt from the requirement of exhibiting such investments and bank statements, and the clerk of the superior court shall not be required to so certify as to the accounts of such banks, except that in addition to the officer verifying the accounts, there shall be added a certificate of another officer of the bank certifying that all assets referred to in the account are held by the guardian or by a clearing corporation for the guardian. If objections are raised to such an accounting, the court shall fix a time and place for the hearing thereon not less than 15 days nor more than 30 days from the date of filing such objections, and notice shall be given by the court to the aforesaid Bureau office and the North Carolina Department of Veterans Affairs by mail not less than 15 days prior to the date fixed for the hearing. Notice of such hearing shall also be given to the guardian."

Sec. 7. G.S. 53-47 is revised to read as follows:

"§ 53-47. *Stocks, limitations on investment in.*—No bank shall make any investment in the capital stock of any other state or national bank: Provided, that nothing herein shall be construed to prevent banks doing business under this Chapter from subscribing to or purchasing, upon such terms as may be agreed upon, the capital stock of clearing corporations as defined in G.S. 25-8-102(3), the capital stock of banks organized under that act of Congress known as the 'Edge Act' or the capital stock of central reserve banks whose capital stock exceeds one million dollars (\$1,000,000). To constitute a central reserve bank as contemplated by this Chapter, at least fifty percent (50%) of the capital stock of such bank shall be owned by other banks. The investment of any bank in the capital stock of such central reserve bank or bank organized under the act of Congress commonly known as the 'Edge Act,' shall at no time exceed ten percent (10%) of the paid-in capital and permanent surplus of the bank making same. No bank shall invest more than fifty percent (50%) of its permanent surplus in the stocks of other corporations, firms, partnerships, or companies, unless such stock is purchased to protect the bank from loss. Any stocks owned or hereafter acquired in excess of the limitations herein imposed shall be disposed of at public or private sale within six months after the date of acquiring the same, and if not so disposed of they shall be charged to profit and loss account, and no longer carried on the books as an asset. The limit of time in which said stocks shall be disposed of or charged off the books of the bank may be extended by the Commissioner of Banks if in his judgment it is for the best interest of the bank that such extension be granted; provided that the limitations imposed in this section on the ownership of stock in or securities of corporations is suspended to the extent (and to that extent only) that any bank

operating under the supervision of the Commissioner of Banks may subscribe for and purchase shares of stock in or debentures, bonds or other types of securities of any corporation organized under the laws of the United States of America for the purpose of insuring to depositors a part or all of their funds on deposit in banks where and to such extent as such stock or security ownership is required in order to obtain the benefits of such deposit insurance for its depositors."

Sec. 8. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of May, 1973.

S. B. 509

CHAPTER 498

AN ACT TO PROVIDE FOR THE ELECTION, TERMS, COMPENSATION AND ADDITIONAL POWERS OF THE LUMBERTON CITY BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. The Board of Education of the Lumberton City School Administrative Unit shall consist of seven members. The term of office of the present members of the Board of Education shall expire as follows: Mrs. Zelma Locklear, term to expire, December 31, 1975; Mr. Al Kahn, term to expire, December 31, 1975; Mr. E. A. Sundy, term to expire, December 31, 1975; Dr. W.M. Lewis, term to expire, December 31, 1977; Mrs. Ethel T. Hayswood, term to expire, December 31, 1977; Mr. Knox M. Barnes, term to expire, December 31, 1977; Mr. Ingram P. Hedgpeth, term to expire, December 31, 1977;

Sec. 2. At the regular municipal election to be held in the City of Lumberton on the first Tuesday after the first Monday in November 1975, and biennially thereafter, there shall be elected to the Board of Education of the Lumberton City School Administrative Unit the number of members necessary to take the place of the members of such Board whose terms next expire. All members elected in 1975, and biennially thereafter, shall serve for a term of four years and until their successors are elected and qualified.

Sec. 3. Any qualified voter may file as a candidate for the Board of Education of the Lumberton City School Administrative Unit by filing a notice of candidacy in the same manner as presently provided for other City officials. All candidates shall be voted upon by all of the qualified voters of the City of Lumberton School Administrative Unit.

Sec. 4. The election shall be held by the same officials and shall be conducted, insofar as practicable, in accordance with the provisions of law, rules and regulations relating to municipal elections in the City of Lumberton.

Sec. 5. If an elected School Board member shall fail or refuse to qualify, or if there is any vacancy in the office of School Board members after election and qualification, or if any School Board member be unable to discharge the duties of his office for any reason, the remaining members of the School Board shall elect some person to serve the unexpired term, or during his disability, as the case may be. School Board members so elected shall have all authority and powers granted to regularly elected members.

Sec. 6. Before entering upon their offices, the members of the Board shall severally take an oath before the Clerk of the Superior Court of Robeson County, State of North Carolina, to perform faithfully the duties of their respective offices.

Sec. 7. Those persons elected and qualified to serve on the Lumberton City Board of Education shall assume office on the first day of January, following their election.

Sec. 8. The members of the Board of Education of the Lumberton City School Administrative Unit shall at the first meeting elect one of their members to serve as Chairman and one member to serve as Vice-Chairman for a term not exceeding two years and said Chairman and Vice-Chairman shall serve until their successors are elected. The Board of Education shall determine its own rules and order of business, time of meetings, and shall keep minutes of all meetings and proceedings.

Sec. 9. The Board of Education of the Lumberton City School Administrative Unit shall have authority to authorize and pay reasonable expenses of the members of the Board, administrative officers, principals, teachers or other members employed for travel in the furtherance of the business and affairs of the schools or for the purpose of promoting the best interest of the schools. Upon the enactment of this bill the members of the Board of the Lumberton City School Administrative Unit shall fix their own compensation for their services as members of the Lumberton City School Administrative Unit.

Sec. 10. The Board of Education of the Lumberton City School Administrative Unit shall have the same powers and authority as is conveyed upon school boards by Chapter 115 of the General Statutes of North Carolina.

Sec. 11. The Board of Education of the Lumberton City School Administrative Unit shall have, in addition to all other powers possessed by it by virtue of any general or special act, the following powers:

1. The Board may convey any of its real property, or any interest therein, for street and sidewalk purposes, or for a public thoroughfare to the State of North Carolina or any subdivision or agency thereof, and it may grant an easement in any such real property for water or sewer lines, public utility lines, conduits or pipes of any kind, either above, below or on the ground, or for any other purposes that said Board shall deem advisable, if, in the Board's opinion, such easement will not interfere with the proper use for school purposes of the property in which such easement is granted.

2. The Board may grant a license for the temporary use of any real or personal property of the said Board for any purpose that the Board may deem advisable, if in the opinion of the Board such license will not interfere with the proper use for school purposes.

3. The Board may make any conveyance, easement or license authorized above, with or without consideration therefor, as the Board may deem advisable, and without compliance with any other law relating to the sale or conveyance of school property.

4. The Board may sell any real property, title to which is vested in the said Board, which, in the opinion of the Board, is not needed for school purposes. Said sale shall be made as provided in G.S. 115-126.

The net proceeds of the sale of any real property of said Board may be applied, at the discretion of the Board, to the purchase of any real or personal property for capital improvements, or to the school bonded indebtedness for the School Administrative Unit.

5. The Board may sell, at private sale, any personal property which in the opinion of said Board does not exceed one thousand dollars (\$1,000).

Advertisement of such sale shall not be necessary. The sale shall not be subject to upset bid, and such sale shall be final. The sale of any personal property, which in the opinion of the Board exceeds one thousand dollars (\$1,000), shall be made as provided by G.S. 115-126.

The proceeds of any sale of personal property, as authorized herein, may be applied to any purpose the Board may direct or authorize.

6. Any personal property, title to which is vested in the Board, may be exchanged for other personal property or be exchanged as part of the purchase price of other personal property by direction or authorization of the Board.

7. When any contract shall have been awarded for any construction or repair work pursuant to and in accordance with the provisions of G.S. 143-129, and, after the work has begun, the Board shall find it necessary or desirable and to the best interest of the schools to make any minor change or changes in the original plans or specifications for such work entailing an expenditure that would result in an increase of the original contract price for the work, it shall have authority to contract with the original contractor for the performance of the work occasioned by such change or changes in the plans or specifications; provided, however, the total expenditures for such extra work shall not exceed ten percent (10%) of the original contract price, nor may such extra work vary so substantially from the original plans or specifications as to constitute in fact a new undertaking.

8. Whenever the Board shall be unable to obtain a suitable site for a school, school building, or other school facility by gift or purchase, it may acquire title to not more than 50 acres for such purposes in the manner prescribed by G.S. 115-125. In like manner, the Board may acquire title to or an easement in such land as may be necessary for street purposes to afford a means of ingress and egress as between any site or sites for schools or school facilities and any established and main traveled street, road or thoroughfare, or any established or dedicated street, road or thoroughfare connecting with any main traveled thoroughfare.

The fact that the land to be so acquired for a suitable site may lie adjacent to an existing public school site shall not be deemed an addition to said existing site if the purpose of its acquisition is to construct or erect an independent school, school building, or school facility, separate and apart from the school and school facility located on the previously existing site.

The Board may acquire title to or an easement in land for street purposes, as herein provided, for more than one means of ingress and egress, but not more than three such means, which shall be of a width necessary to comply with all State laws, rules and regulations of the State Highway Commission with respect to the required width of public streets or roads, but not in excess thereof.

9. Whenever it shall become necessary for the Board to proceed, as provided in G.S. 115-125, the Clerk of the Superior Court of Robeson County shall be authorized and empowered to charge, as a part of the costs, a reasonable compensation for the appraisers appointed by the Court to assess the value of the land or easement therein so acquired, to be paid by the Board and not by the other parties to the proceedings except in case of an appeal from the Clerk of the Superior Court.

Sec. 12. The term "school facility", as used herein, shall be deemed to include any of the following: school buildings, together with accessory buildings, playgrounds, athletic fields, parking facilities, warehouses for storing school

supplies, garages and shops for use in storing and maintaining school equipment and vehicles, right-of-way easements, property for the location of septic tanks, sewage lines, filter beds and effluent lines.

Sec. 13. Chapter 211 of the 1965 Session Laws is hereby repealed.

Sec. 14. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 15th day of May, 1973.

S. B. 518

CHAPTER 499

AN ACT TO MODIFY THE PROVISIONS OF G.S. 160-389 AND G.S. 159-64 AS APPLIED TO THE BONDS AUTHORIZED DURING THE YEAR 1969 EXTENDING THE TIME WITHIN WHICH SUCH BONDS MAY BE ISSUED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160-389 is hereby amended by striking out the words "five years" in the third line thereof and inserting in lieu thereof the words "seven years".

Sec. 2. G.S. 159-64, which will become effective July 1, 1973, is hereby amended by striking out the words "five years" in the second line thereof and inserting in lieu thereof the words "seven years".

Sec. 3. The provisions of this act shall apply only to the bonds authorized during the period July 1, 1968, through December 31, 1969.

Sec. 4. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of May, 1973.

S. B. 615

CHAPTER 500

AN ACT TO AMEND G.S. 136-41.1, G.S. 105-113.86, AND G.S. 105-213 WITH REGARD TO DISTRIBUTION OF GAS AND INTANGIBLE TAX REVENUES TO CITIES AND COUNTIES ACCORDING TO THEIR POPULATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-41.1 is hereby amended by striking the words "as indicated by the latest certified federal decennial census" from the fourth line of the second paragraph and inserting in place thereof the words "according to the most recent annual estimates of population as certified to the Commissioner of Revenue by the Secretary of the North Carolina Department of Administration".

Sec. 2. Subsection (p) of G.S. 105-113.86 is hereby amended by striking from the second sentence the words "as shown by the latest federal decennial census" and inserting in place thereof the words "according to the most recent annual estimates of population as certified to the Commissioner of Revenue by the Secretary of the North Carolina Department of Administration".

Sec. 3. G.S. 105-213 is hereby amended by striking the words "as shown by the latest federal decennial census" from the eighth and ninth lines of the third paragraph and inserting in place thereof the words "according to the most

recent annual estimates of population as certified to the Commissioner of Revenue by the Secretary of the North Carolina Department of Administration”.

Sec. 4. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 15th day of May, 1973.

S. B. 880

CHAPTER 501**AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF MAYODAN AND TO REPEAL PRIOR CHARTER ACTS.**

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Mayodan is hereby revised and consolidated to read as follows:

“The Charter of the Town of Mayodan

“ARTICLE I. INCORPORATION AND CORPORATE POWERS

“Sec. 1.1. *Incorporation and General Powers.* The Town of Mayodan shall continue to be a body politic and corporate under the name of the ‘Town of Mayodan’, and shall continue to be vested with all property and rights which now belong to the Town; shall have perpetual succession; may have a common seal and alter and renew the same at pleasure; may sue and be sued; may contract, may acquire and hold all such property, real and personal, as may be devised, bequeathed, sold or in any manner conveyed or dedicated to it, or otherwise acquired by it, and may from time to time hold or invest, sell, or dispose of the same; and shall have and may exercise in conformity with this Charter all municipal powers, functions, rights, privileges, and immunities of every name and nature.

“Sec. 1.2. *Exercise of Powers.* All powers, functions, rights, privileges, and immunities of the Town, its officers, agencies, or employees, shall be carried into execution as provided by this Charter, or, if this Charter makes no provision, as provided by ordinance or resolution of the Town Council and as provided by the general laws of North Carolina pertaining to municipal corporations.

“Sec. 1.3. *Enumerated Powers Not Exclusive.* The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive but, in addition, to the powers enumerated herein or implied hereby, or those appropriate to the exercise of such powers, the Town of Mayodan shall have and may exercise all powers which are granted to municipal corporations by the general laws of North Carolina and all powers which, under the Constitution of North Carolina, it would be competent for this Charter specifically to enumerate.

“ARTICLE II. CORPORATE BOUNDARIES

The corporate boundaries of the Town of Mayodan shall be as follows until changed in accordance with law:

BEGINNING at a point at the southwest corner of the old city limits at the intersection of N.C. #704 and Ayersville Road; thence along the northern margin of N.C. #704, North 55 deg. 35 min. West, 722.19 feet to an iron stake and North 54 deg. 25 min. West 424.15 feet to an iron stake; thence leaving the

northern margin of N.C. #704, North 35 deg. 20 min. East 474.45 feet to an iron stake; thence North 17 deg. 11 min. West 1556.31 feet along a line lying westwardly of the airport runway; thence North 81 deg. 40 min. West 1245.86 feet to an iron stake on the western side of Will Turner Road, near the southeastern corner of Madison Throwing Plant #10; thence along the southern line of said plant, North 54 deg. 16 min. West 1105.05 feet to an iron stake; thence North 33 deg. 25 min. East 883.12 feet to an iron stake; thence North 50 deg. 15 min. East 483.5 feet to an iron stake; thence North 3 deg. 36 min. East 749.45 feet to an iron stake; thence North 37 deg. 42 min. East 578.65 feet to an iron stake; thence North 20 deg. 31 min. East 384.15 feet to an iron stake in the eastern margin of Ayersville Road; thence with the eastern margin of Ayersville Road the two following courses and distances: North 6 deg. 33 min East 236.5 feet to an iron stake and North 23 deg. 50 min. East 326.55 feet to an iron stake; thence leaving Ayersville Road, South 86 deg. 55 min East 196.21 feet to an iron stake; thence North 48 deg. 16 min. East 234.41 feet to an iron stake; thence North 43 deg. 03 min. East 173.66 feet to an iron stake; thence North 31 deg. 07 min. East, 1033.16 feet to an iron stake; thence North 80 deg. 28 min. East 1637.91 feet to an iron stake; thence North 64 deg. 45 min. East 1877.89 feet to an iron stake on the bank of a branch; thence with the meanderings of the branch the nine following courses and distances: South 22 deg. 05 min. East 227.81 feet; South 7 deg. 37 min. East 188.19 feet; South 64 deg. 30 min. East 162.52 feet; South 14 deg. 03 min. East 187 feet; South 25 deg. 48 min. East 353.45 feet; South 21 deg. 41 min. East 397.08 feet; South 23 deg. 57 min. East 113.46 feet; South 40 deg. 29 min. East 104.17 feet; and South 76 deg. 09 min. East crossing U.S. Highway #220 and the Norfolk and Western Railroad, 463.85 feet to an iron stake on the north side of Mayo River; thence with the North side of said river the three following courses and distances: South 10 deg. 57 min. West 142.75 feet; South 211.32 feet; thence South 8 deg. 09 min. East 91.42 feet to an iron stake on the north side of Mayo River; thence down the river to the southeast corner of Washington Mills (formerly Mayo Mills) property; thence westerly with Washington Mills South line to the east side of Norfolk and Western Railway; thence westerly with the division line between the W. N. Mebane Estate and the Piedmont Land and Manufacturing Company to the point of BEGINNING.

“Sec. 2.2. *Extension of Corporate Boundaries.* All extensions of the corporate boundaries shall be governed by the General Statutes of North Carolina.

“ARTICLE III. MAYOR AND TOWN COUNCIL

“Sec. 3.1. *Composition of Town Council.* The Town Council shall consist of five members to be elected by the qualified voters of the Town voting at large in the manner provided in Article IV of this Charter.

“Sec. 3.2. *Mayor and Mayor Pro Tempore.* The Mayor shall be elected by and from the qualified voters of the Town voting at large in the manner provided in Article IV of this Charter. The Mayor shall be the official head of the Town government and shall preside at all meetings of the Town Council. When there is an equal division on a question, the Mayor shall resolve the deadlock by his vote, but he shall vote in no other case. The Mayor shall exercise such powers and perform such duties as are or may be conferred upon him by the general laws of North Carolina, by this Charter, and by the ordinances of the Town. The Town Council shall choose one of its number to act as Mayor Pro Tempore, and he shall perform the duties of the Mayor in the Mayor's absence or disability.

The Mayor Pro Tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the Council.

"Sec. 3.3. *Terms; Qualifications; Vacancies.* (a) The members of the Town Council shall serve for terms of two years, and the Mayor shall also serve for a term of two years, beginning the day and hour of the organizational meeting following their election, as established by ordinance in accordance with this Charter; provided, they shall serve until their successors are elected and qualify.

(b) No person shall be eligible to be a candidate or be elected as Mayor or as a member of the Town Council or to serve in such capacity, unless he is a resident and a qualified voter of the Town.

(c) In the event a vacancy occurs in the office of Mayor or Councilman, the Council shall by majority vote appoint some qualified person to fill the same for the remainder of the unexpired term.

"Sec. 3.4. *Organization of Town Council; Oaths of Office.* The Town Council shall meet and organize for the transaction of business at the first regularly scheduled meeting of the Council in December following each biennial election. Before entering upon their offices, the Mayor and each Councilman shall take, subscribe to and have entered upon the minutes of the Council the following oath of office:

'I, _____, do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office as _____, so help me, God.'

"Sec. 3.5. *Meetings of Council.* (a) The Town Council shall fix a suitable time and place for its regular meetings, which shall be held at least as often as once monthly.

(b) The Mayor, the Mayor Pro Tempore, or any two members of the Council may at any time call a special Council meeting by signing a written notice stating the time and place of the meeting and the subjects to be considered. The notice shall be delivered to the Mayor and each Councilman or left at his usual dwelling place at least six hours before the meeting. Special meetings may be held at any time when the Mayor and all members of the Council are present and consent thereto, or when those not present have signed a written waiver of notice. Only those items of business specified in the notice may be transacted at a special meeting, unless all members are present or have signed a written waiver of notice.

"Sec. 3.6. *Quorum; Votes.* (a) A majority of the members elected to the Town Council shall constitute a quorum for the conduct of business, but a less number may adjourn from time to time and compel the attendance of absent members in such manner as may be prescribed by ordinance.

(b) The affirmative vote of a majority of the members elected to the Council not excused from voting on the question in issue shall be necessary to adopt any ordinance, or any resolution or motion having the effect of an ordinance. All other matters to be voted upon shall be decided by a majority vote of those present and voting.

"Sec. 3.7. *Ordinances and Resolutions.* The adoption, amendment, repeal, pleading, or proving of ordinances shall be in accordance with the applicable provisions of the general laws of North Carolina not inconsistent with this Charter. The ayes and noes shall be taken upon all ordinances and resolutions

and entered upon the minutes of the Council. The enacting clause of all ordinances shall be: 'Be it ordained by the Town Council of the Town of Mayodan'. All ordinances and resolutions shall take effect upon adoption unless otherwise provided therein.

"ARTICLE IV. ELECTIONS

"Sec. 4.1. *Regular Municipal Elections.* Regular municipal elections shall be held biennially in odd-numbered years on the day set by general law for municipal elections. In each election, the candidate for Mayor who receives the largest number of votes cast for Mayor shall be declared elected for a term of two years and the five candidates for Councilman who receive the largest number of votes cast for Councilman shall be declared elected for terms of two years.

"Sec. 4.2. *Regulation of Elections.* All Town elections shall be conducted in accordance with the general laws of North Carolina relating to municipal elections.

"ARTICLE V. TOWN MANAGER

"Sec. 5.1. *Appointment; Compensation.* The Town Council shall appoint an officer whose title shall be Town Manager and who shall be the head of the administrative branch of the Town government. The Town Manager shall be chosen by the Council solely on the basis of his executive and administrative qualifications with special reference to his actual experience in, or knowledge of, accepted practice in respect to the duties of his office as hereinafter prescribed. At the time of his appointment he need not be a resident of the Town, but shall reside therein during his tenure of office. No person elected as Mayor or as a member of the Council shall be eligible for appointment as Town Manager until one year shall have elapsed following the expiration of the term for which he was elected. The Town Manager shall serve at the pleasure of the Council and shall receive such salary as the Council shall fix.

"Sec. 5.2. *Powers and Duties of Town Manager.* The Town Manager shall be the chief administrator of the Town. He shall be responsible to the Town Council for administering all municipal affairs placed in his charge by them, and shall have the following powers and duties:

- (1) He shall appoint and suspend or remove all Town employees, except the Town Attorney, in accordance with such general personnel rules, regulations, policies, or ordinances as the Council may adopt.
- (2) He shall direct and supervise the administration of all departments, offices, and agencies of the Town, subject to the general direction and control of the Council, except as otherwise provided by law.
- (3) He shall attend all meetings of the Council and recommend any measures that he deems expedient.
- (4) He shall see that all laws of the State, the Town Charter, and the ordinances, resolutions, and regulations of the Council are faithfully executed within the Town.
- (5) He shall prepare and submit the annual budget and capital program to the Council.
- (6) He shall annually submit to the Council and make available to the public a complete report on the finances and administrative activities of the Town as of the end of the fiscal year.
- (7) He shall make any other reports that the Council may require

concerning the operations of the Town departments, offices, and agencies subject to his direction and control.

- (8) He shall perform any other duties that may be required or authorized by the Council.

“ARTICLE VI. TOWN ATTORNEY

“Sec. 6.1. *Appointment; Qualifications, Term; Compensation.* The Town Council may appoint a Town Attorney who shall be an attorney at law licensed to engage in the practice of law in North Carolina and who need not be a resident of the Town during his tenure. The Town Attorney shall serve at the pleasure of the Council and shall receive such compensation as the Council shall determine.

“Sec. 6.2. *Duties of Town Attorney.* It shall be the duty of the Town Attorney to prosecute and defend suits for and against the Town; to advise the Mayor, Town Council, Town Manager, and other Town officials with respect to the affairs of the Town; to draft all legal documents relating to the affairs of the Town; to draft proposed ordinances when requested to do so; to inspect and pass upon all agreements, contracts, franchises and other instruments with which the Town may be concerned; to attend all meetings of the Town Council when required by the Council and to perform such other duties as may be required of him by virtue of his position as Town Attorney.

“ARTICLE VII. ADMINISTRATIVE OFFICERS AND EMPLOYEES

“Sec. 7.1. *Town Clerk.* The Town Manager shall appoint a Town Clerk to keep a journal of the proceedings of the Town Council and to maintain in a safe place all records and documents pertaining to the affairs of the Town, and to perform such other duties as may be required by law or as the Council may direct.

“Sec. 7.2. *Town Tax Collector.* The Town Council shall appoint a Tax Collector to collect all taxes, licenses, fees and other monies belonging to the Town, subject to the provisions of this Charter and the ordinances of the Town, and he shall diligently comply with and enforce all the general laws of North Carolina relating to the collection, sale, and foreclosure of taxes by municipalities.

“Sec. 7.3. *Town Finance Officer.* The Town Manager shall appoint a Town Finance Officer to perform the duties of the Finance Officer as required by the Local Government Budget and Fiscal Control Act.

“Sec. 7.4. *Consolidation of Functions.* The Town Manager with approval of the Town Council may consolidate any two or more of the positions of Town Clerk, Town Tax Collector, and Town Finance Officer, or may assign the functions of any one or more of these positions to the holder or holders of any other of these positions.

“ARTICLE VIII. FINANCE

“Sec. 8.1. *Custody of Town Money.* All monies received by the Town for or in connection with the business of the Town government shall be paid promptly into the Town depository or depositories. Such institutions shall be designated by the Town Council in accordance with the regulations and subject to the requirements as to security for deposits and interest thereon as may be established by the General Statutes of North Carolina. All interest on monies belonging to the Town shall accrue to the benefit of the Town. All monies belonging to the Town shall be disbursed in accordance with the provisions of the Local Government Budget and Fiscal Control Act.

"Sec. 8.2. *Independent Audit.* As soon as possible after the close of each fiscal year, an independent audit shall be made of all books and accounts of the Town government by a certified public accountant or an accountant certified by the Local Government Commission. The audit shall be secured in accordance with the provisions of the Local Government Budget and Fiscal Control Act.

"ARTICLE IX. POLICE

"Sec. 9.1. *Jurisdiction.* The jurisdiction of the police force is hereby extended to include all Town-owned property and facilities whether located within or outside the corporate limits, and all members of the police force shall have upon and within such property and facilities all rights, power and authority as they have within the corporate limits.

"ARTICLE X. STREET AND SIDEWALK IMPROVEMENTS

"Sec. 10.1. *Street Improvements; Assessment of Costs.* In addition to any authority which is now or may hereafter be granted by general law to the Town for making street improvements the Town Council is hereby authorized to make street improvements and to assess the cost thereof against abutting property owners in accordance with the provisions of this Article.

"Sec. 10.2. *When Petition Unnecessary.* The Town Council may order street improvements and assess the cost thereof, exclusive of the costs incurred at street intersections, against the abutting property owners, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the North Carolina General Statutes, without the necessity of a petition, upon the finding by the Council as a fact:

(a) That the street improvement project does not exceed 1,200 linear feet, and

(b) That such street or part thereof is unsafe for vehicular traffic and it is in the public interest to make such improvement, or

(c) That it is in the public interest to connect two streets, or portions of a street already improved, or

(d) That it is in the public interest to widen a street, or part thereof, which is already improved; provided, that assessments for widening any street or portion of street without a petition shall be limited to the cost of widening and otherwise improving such street in accordance with the street classification and improvement standards established by the Town's thoroughfare or major street plan for the particular street or part thereof to be widened and improved under the authority granted by this Article.

"Sec. 10.3. *Street Improvement Defined.* For the purposes of this Article, the term 'street improvement' shall include grading, regrading, surfacing, resurfacing, widening, paving, repaving, the acquisition of right-of-way, and the construction or reconstruction of curbs, gutters and street drainage facilities.

"Sec. 10.4. *Sidewalks; Assessment of Costs.* In addition to any authority which is now or may hereafter be granted by general law to the Town for making sidewalk improvements, the Town Council is hereby authorized, without the necessity of a petition, to make or to order to be made sidewalk improvements or repairs according to standards and specifications of the Town, and to assess the total cost thereof against abutting property owners, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the North Carolina General Statutes; provided, however, that regardless of the assessment basis or bases employed, the Council may order the cost of sidewalk

improvements made only on one side of a street to be assessed against property owners abutting both sides of such street.

"Sec. 10.5. *Assessment Procedure.* In ordering street and sidewalk improvements without a petition and assessing the cost thereof under authority of this Article, the Council shall comply with the procedure provided by Article 10, Chapter 160A of the General Statutes, except those provisions relating to the petition of property owners and the sufficiency thereof.

"Sec. 10.6. *Effect of Assessments.* The effect of the act of levying assessments under the authority of this Article shall for all purposes be the same as if the assessments were levied under authority of Article 10 of Chapter 160A of the General Statutes.

"Sec. 10.7. *Acceptance of Conveyance in Satisfaction of Assessments.* The Town Tax Collector or any other official or employee of the Town having charge of the collection of special assessments, shall have the right, power, and authority, by and with the approval of the Town Council first obtained and had, to receive and accept a fee simple conveyance to the Town of any lot or parcel of land in the Town, free and clear of other encumbrances, in full settlement and satisfaction of all street and sidewalk assessments outstanding and unpaid against such property. Such right, power, and authority, however, shall be limited to a conveyance of the whole or the lot or parcel of land against which the particular assessment or assessments involved were levied. No lot or tract of land may be divided and no such right, power, and authority exercised as to a part, only, of the property originally embraced in and covered by said assessment or assessments. In the case of such conveyance, it shall not be necessary that the street or sidewalk assessment or assessments against the property be foreclosed; but the Town, upon the receipt of any such conveyance, shall become and be the absolute fee simple owner of the property, as fully to all intents and purposes as if purchased in and through foreclosure proceedings for the enforcement of such street and sidewalk assessment or assessments.

"ARTICLE XI. CLAIMS AGAINST THE TOWN

"Sec. 11.1. *Presentation of Claims; Suit Upon Claims.* (a) All claims or demands against the Town of Mayodan arising in tort or in contract shall be presented to the Town Council in writing, signed by the claimant, his attorney or agent, within 90 days after the claim or demand is due or the cause of action accrues, and no suit or action shall be brought thereon within 30 days or after the expiration of 12 months from the time said claim or demand is so presented. Unless the claim or demand is so presented within 90 days after the cause of action accrues, and unless suit is brought within 12 months thereafter, any action thereon is barred.

(b) No action shall be instituted against the Town for damages to or compensation for real property taken or used by the Town for any public purpose, or for the ejectment of the Town therefrom, or to remove a cloud upon the title thereof, unless, within two years after such alleged use, the owner, his executor, administrator, guardian, or next friend, shall have given notice in writing to the Town Council of the claim, stating in the notice the date that the alleged use commenced, a description of property alleged to have been used, and the amount of the damage or compensation claimed.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, if a complainant suffers from physical or mental incapacity that renders it impossible for him to give notice, his action shall not be barred if notice of claim

is given by him or on his behalf within six months after the termination of his incapacity; provided, that minority shall not of itself constitute physical or mental incapacity. If the complainant is a minor, his action shall not be barred if notice of claim is given on his behalf within three years after the occurrence of the infliction of the injury complained of; or, if the minor suffers from physical or mental incapacity that renders it impossible for him to give notice, his action shall not be barred if notice of claim is given on his behalf within six months after termination of the incapacity, or within three years after the occurrence of the infliction of the injury complained of, whichever is the longer period. The Town may at any time request the appointment of a next friend to represent any person having a potential claim against the Town and known to be suffering from physical or mental incapacity."

Sec. 2. The purpose of this act is to revise the Charter of the Town of Mayodan and to consolidate herein certain acts concerning the property, affairs, and government of the Town. It is intended to continue without interruption those provisions of prior acts which are consolidated into this act, so that all rights and liabilities that have accrued are preserved and may be enforced.

Sec. 3. This act shall not be deemed to repeal, modify, or in any manner affect any of the following acts, portions of acts, or amendments thereto, whether or not such acts, portions of acts, or amendments are expressly set forth herein:

(a) Any acts concerning the property, affairs, or government of public schools in the Town of Mayodan.

(b) Any acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind.

Sec. 4. The following acts or portions of acts, having served the purposes for which they were enacted, or having been consolidated into this act are hereby repealed:

<u>Chapter</u>	<u>Laws</u>
50	Session Laws 1949
1298	Session Laws 1957
398	Session Laws 1961
672	Session Laws 1961

Sec. 5. No provision of this act is intended, nor shall be construed, to affect in any way any rights or interests (whether public or private):

(a) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act;

(b) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken (including the adoption of ordinances or resolutions) pursuant to or within the scope of any provision of law repealed by this act.

Sec. 6. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(a) The repeal herein of any act repealing such law, or

(b) Any provision of this act that disclaims an intention to repeal or effect enumerated or designated laws.

Sec. 7. (a) All existing ordinances and resolutions of the Town of Mayodan, and all existing rules or regulations of departments or agencies of the Town of Mayodan, not inconsistent with the provisions of this act, shall continue in full force and effect until repealed, modified or amended.

(b) No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act by or against the Town of Mayodan or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

Sec. 8. Severability. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 9. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 10. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 15th day of May, 1973.

S. B. 891

CHAPTER 502

AN ACT TO PROVIDE FOR THE ELECTION OF SOIL CONSERVATION DISTRICT SUPERVISORS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 139-6 is amended and rewritten to read as follows:

“§ 139-6. After the issuance of the certificate of organization of the soil conservation district by the Secretary of State, an election shall be held in each county of the district to elect the members of the soil conservation district board of supervisors as herein provided.

The district board of supervisors shall consist of three elective members to be elected in each county of the district, and that number of appointive members as provided in G.S. 139-7. Upon the creation of a district, the first election of the members shall be held at the next succeeding election for county officers.

All elections for members of the district board of supervisors shall be held at the same time as the regular election for county officers beginning in November 1974. The election shall be nonpartisan and no primary election shall be held. The election shall be held and conducted by the county board of elections. No absentee ballots shall be permitted in the election.

Candidates shall file their notice of candidacy on forms prescribed by the county board of elections. The notice of candidacy must be filed no later than 12:00 noon on the second Friday in September preceding the election. The candidate shall pay a filing fee of five dollars (\$5.00) at the time he files the notice of candidacy.

Beginning with the election to be held in November 1974, the two candidates receiving the highest number of votes shall be elected for a term of four years, and the candidate receiving the next highest number of votes shall be elected for a term of two years; thereafter, as their terms expire, their successors shall be elected for terms of four years.

The persons elected in 1974 and thereafter shall take office on the first Monday in December following their election.

The terms of the present members of the soil conservation districts, both elective and appointive members, are hereby extended to or terminated on the first Monday in December, 1974.

All qualified voters of the district shall be eligible to vote in the election. Except as provided in this act, the election shall be held in accordance with the applicable provisions of Articles 23 and 24 of Chapter 163 of the General Statutes.

The district board of supervisors, after the appointment of the appointive members has been made, shall select from its members a chairman, a vice-chairman and a secretary. It shall be the duty of the district board of supervisors to perform those powers, duties and authority conferred upon supervisors under this Chapter; to develop annual county and district goals and plans for soil conservation work therein; to request agencies, whose duties are such as to render assistance in soil and water conservation, to set forth in writing what assistance they may have available in the county and district."

Sec. 2. G.S. 139-7 is hereby amended by rewriting the first paragraph to read as follows:

"§ 139-7. The governing body of a soil conservation district shall consist of the three elective supervisors from the county or counties in the district, together with the appointive members appointed by the State Committee pursuant to this section, and shall be known as the district board of supervisors. When a district is composed of less than four counties, the elective supervisors of each county shall on or before December 31, 1974, and on or before December 31 as the terms of the appointive supervisors expire, recommend in writing two persons to the State Committee to be appointed to serve with the elective supervisors. If the names are not submitted to the State Committee as required, the State Committee shall appoint two persons of the district to the district board of supervisors to serve with the elected supervisors. The State Committee shall make its appointments prior to or at the January meeting of the State Committee. Appointive supervisors shall take office on the third Wednesday in January following their appointment. One appointive supervisor shall be appointed for a term of two years and one for a term of four years. Thereafter, as their terms expire, their successors shall be appointed for terms of four years. Vacancies for any reason in the appointive supervisors shall be filled for the unexpired term by the appointment of a person by the State Committee from the district in which the vacancy occurs. Vacancies for any reason in the elected supervisors shall be filled for the unexpired term by appointment by the State Committee of a person from the county in the district in which the vacancy occurs.

In those districts composed of four or more counties, the State Committee may, but is not required, to appoint one district supervisor without recommendation from the elective supervisors, to serve as a district supervisor along with the elected members of the board of supervisors. Such appointment shall be made at the same time other appointments are made under this section, and the person appointed shall serve for a term of four years."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of May, 1973.

H. B. 146

CHAPTER 503

AN ACT TO MAKE VARIOUS MINOR TECHNICAL AND EDITORIAL AMENDMENTS IN GENERAL STATUTES, CHAPTER 7A (JUDICIAL DEPARTMENT).

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-49.2(a) is amended by deleting “and uncontested divorce cases”.

Sec. 2. G.S. 7A-171(b) is amended by deleting from lines three and four the words in parentheses.

Sec. 3. G.S. 7A-180 is amended by rewriting the opening words (before the colon) to read as follows: “The clerk of superior court:”, and by deleting from subparagraph (3) “Immediately sets up and thereafter maintains”, inserting in lieu thereof “Maintains”.

Sec. 4. G.S. 7A-180(4) is amended in line four, after “to” by inserting “enter judgment and”.

Sec. 5. G.S. 7A-181 is amended by rewriting the opening words (before the colon) to read as follows: “Assistant and deputy clerks of superior court:”.

Sec. 6. G.S. 7A-249 is amended by deleting the period (.) and adding: “, and proceedings under Chapters 55 (Business Corporation Act) and 55A (Non-Profit Corporation Act) of the General Statutes”.

Sec. 7. G.S. 7A-250 is amended by deleting the period (.) and adding: “, and any order or decision of the Commissioner of Insurance described in G.S. 58-9.4”.

Sec. 8. G.S. 7A-273(2) is amended in line three before the semicolon (;) by inserting “, and, in such cases, to enter judgment and collect the fine and costs”.

Sec. 9. G.S. 7A-292 is amended by deleting subparagraphs (11) and (13), by adding “and” at the end of subparagraph (10), by deleting “; and” at the end of subparagraph (12), by renumbering subparagraph (12) as subparagraph (11) and placing a period (.) at the end thereof.

Sec. 10. G.S. 7A-300 is amended by inserting a new subparagraph (10) to read as follows: “(10) Operating expenses of the Judicial Council and the Judicial Standards Commission;”, and by renumbering present subparagraphs (10) and (11) accordingly.

Sec. 11. G.S. 7A-300(9) is amended by inserting before the semicolon (;) “and, in cases in which the defendant pays for a transcript of the preliminary hearing, a copy for the solicitor”.

Sec. 12. G.S. 7A-305(a)(2) is amended by rewriting the first sentence to read as follows: “For support of the General Court of Justice, the sum of twenty dollars (\$20.00) in the superior court, and the sum of ten dollars (\$10.00) in the district court, except that in the district court if the amount sued for does not exceed three hundred dollars (\$300.00), excluding interest, the sum shall be five dollars (\$5.00).”

Sec. 13. G.S. 7A-305(b) is amended in the first sentence by changing the semicolon (;) in line four to a period (.), and deleting the remainder of the sentence.

Sec. 14. G.S. 7A-305(d) is amended in subparagraph (4) by deleting the period (.) after “mail”, and adding “and by publication.”.

Sec. 15. G.S. 7A-306(c) is amended in subparagraph (4) by inserting after "sheriff's fees," the words "and for service by publication,".

Sec. 16. G.S. 7A-308(a)(15) is rewritten to read as follows: "On all funds placed with the clerk by virtue or color of his office, to be administered, invested, or administered in part and invested in part, a commission of one percent (1%), with a minimum fee of fifteen dollars (\$15.00) and a maximum fee of five hundred dollars (\$500.00), except that on accounts of two hundred dollars (\$200.00) or less, there shall be no commission. For purposes of assessing a commission, receipts are cumulative for the life of an account."

Sec. 17. G.S. 7A-309(1) is amended by changing "\$4.00" to "\$5.00".

Sec. 18. G.S. 7A-311(a) is amended in subparagraph (1) by adding the following between the third and fourth sentences: "If the process is served, or attempted to be served, by a city policeman, the fee shall be remitted to the city rather than the county."

Sec. 19. G.S. 7A-312 is amended by adding the following at the end thereof: "Jurors from out of the county summoned to sit on a special venire shall receive mileage at the same rate as State employees."

Sec. 20. G.S. 7A-313 is amended in line three by changing "day's" to "twenty-four hours".

Sec. 21. G.S. 7A-314 is amended by inserting "Judicial Standards Commission," in the first sentence, after "court," and before "jury of view", and, in line five, after "which", inserting "except as to witnesses before the Judicial Standards Commission,".

Sec. 22. G.S. 7A-314(d) is amended, in line two, after "court" by inserting "or the Judicial Standards Commission,".

Sec. 23. This act shall become effective October 1, 1973.

In the General Assembly read three times and ratified, this the 15th day of May, 1973.

H. B. 428 CHAPTER 504

AN ACT TO EXEMPT THE BLIND FROM INLAND FISHING LICENSE REQUIREMENTS.

The General Assembly of North Carolina enacts:

Section 1. Article 21 of Chapter 113 of the General Statutes is hereby amended by rewriting G.S. 113-271(c) to read as follows:

"(c) Any resident of North Carolina who has been certified by the North Carolina Commission for the Blind as a person whose vision with glasses is insufficient for use in ordinary occupations for which sight is essential shall, upon submitting an application together with an authenticated copy of such certification to the License Section of the Wildlife Resources Commission at its headquarters in Raleigh, receive a nontransferable hook-and-line fishing license and, if requested, a special trout license which shall be issued without charge and which shall be valid for the life of such person."

Sec. 2. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 15th day of May, 1973.

H. B. 566

CHAPTER 505

AN ACT TO INCREASE THE CLASS A GIFT TAX EXEMPTIONS.

The General Assembly of North Carolina enacts:

Section 1. Article 6 of Chapter 105 of the General Statutes is hereby amended by:

(a) Rewriting G.S. 105-188(g) to read as follows:

“(g) A donor shall be entitled to a total exemption of thirty thousand dollars (\$30,000) to be deducted from gifts made to donees named in subdivision (1) of subsection (f), less the sum of amounts claimed and allowed as an exemption in prior calendar years. The exemption, at the option of the donor, may be taken in its entirety in a single year, or may spread over a period of years. When this exemption has been exhausted, no further exemption is allowable. When the exemption or any portion thereof is applied to gifts to more than one donee in any one calendar year, said exemption shall be apportioned against said gifts in the same ratio as the gross value of the gifts to each donee is to the total value of said gifts in the calendar year in which said gifts are made. No exemption shall be allowed to a donor for gifts made to donees named in subdivisions (2) and (3) of subsection (f).”

Sec. 2. This act shall be effective January 1, 1974.

In the General Assembly read three times and ratified, this the 15th day of May, 1973.

H. B. 886

CHAPTER 506

AN ACT TO REQUIRE PROPER MARKINGS ON ALL APPLES INCLUDING THOSE SHIPPED INTO NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. G.S. 106-189.1(a), as the same appears in the 1971 Cumulative Supplement to Volume 3A of the General Statutes, is amended and rewritten to read as follows:

“(a) All apples sold, offered for sale or shipped into this State in closed containers shall bear on the container, bag or other receptacle no grade other than the applicable U.S. grade or standard or the marking ‘unclassified’, ‘not graded’ or ‘grade not determined’.”

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of May, 1973.

H. B. 1063

CHAPTER 507

AN ACT TO REORGANIZE THE DEPARTMENT OF TRANSPORTATION AND HIGHWAY SAFETY AS IT RELATES TO HIGHWAYS.

The General Assembly of North Carolina enacts:

Section 1. Article 11 of Chapter 143A of the North Carolina General Statutes is amended by renumbering 143A-98 as 143A-98.1 and adding the following sections:

“§ 143A-98.2. *Board of Transportation.*

(1) There is hereby created a Board of Transportation. The Board of Transportation shall formulate policies for the carrying out of highway functions assigned to the Department of Transportation and Highway Safety and it shall supervise the carrying out of these functions and perform such other duties as required by law. Notwithstanding the provisions of G.S. 143A-6, 143A-9, or any other statute, except as provided in this act, the Board of Transportation shall have complete and exclusive authority in all highway matters assigned to the Department of Transportation and Highway Safety. The Board of Transportation shall have the authority in organizing the sections, divisions, or other organizational structure of the Department of Transportation and Highway Safety involved in the carrying out of highway functions and, subject to the State Personnel Act, shall have complete authority over hiring, promotions, and dismissals of personnel in the Department of Transportation and Highway Safety paid from the Highway Fund. The Board of Transportation may, in its discretion, delegate the award of contracts, the promulgation or ordinances, and management functions to the Secretary, who in turn may subdelegate these functions. The Board of Transportation may in its discretion assign and delegate personnel functions in a manner which in its opinion will achieve maximum efficiency in carrying out highway functions.

(2) The Board of Transportation shall consist of the following:

(a) The Chairman. The Secretary of Transportation and Highway Safety shall be an ex officio member of the Board of Transportation and shall be the Chairman of the Board of Transportation.

(b) The Board of Transportation shall have nine members appointed by the Governor. The initial Board members shall be appointed for a term to begin July 1, 1973, and shall serve until January 15, 1977, or until their successors are appointed and qualified. The succeeding terms of office shall be for a period of four years beginning January 15, 1977, and each four years thereafter. The Governor shall have the authority to remove for cause sufficient to himself, any member appointed by him, and the Governor shall make public the reason for such removal.

(c) The Board of Transportation shall have three members appointed from the membership of the General Assembly, in addition to those members appointed by the Governor. One member shall be appointed by the Lieutenant Governor, one shall be appointed by the Speaker of the House of Representatives, and one shall be appointed by the Joint Caucus Leader of the Minority Party. The term of the initial Board members appointed from the membership of the General Assembly shall begin July 1, 1973, and they shall serve until January 15, 1975, or until a successor is duly appointed and qualified. The succeeding terms shall be for two years beginning January 15, 1975, and each two years thereafter. Vacancies in office shall be filled by the same official making the initial appointment to that office.

(d) The headquarters and main office of the Board of Transportation shall be located in Raleigh, and the Board shall meet once in each 60 days at such regular meeting time as the Board by rule may provide and at any place within the State as the Board may provide, and may hold special meetings at any time or place within the State at the call of the Chairman, or any three members of the Board. The Board shall have the power to adopt and enforce rules and regulations for the government of

its meetings and proceedings, and for the transaction of all business of the Board. The Board shall keep minutes of its meetings, which shall at all times be open to public inspection. A majority of the Board shall constitute a quorum for the transaction of business. The members of the Board shall receive per diem and necessary travel and subsistence expense in accordance with G.S. 138-5.

“§ 143A-98.3. *Secondary Roads Council.*—There is hereby created a Secondary Roads Council. The Secondary Roads Council of the Department of Transportation and Highway Safety shall consist of fourteen members appointed by the Governor who shall serve at the pleasure of the Governor. No two council members appointed by the Governor while serving shall reside in any one of the fourteen engineering divisions as now established by G.S. 136-14.1. The Governor shall designate a member of the Council to serve as Chairman at the pleasure of the Governor. Members of the Council shall receive per diem and necessary travel and subsistence expense in accordance with the provisions of G.S. 138-5. A majority of the members of the Council shall constitute a quorum for the transaction of business. The Council shall meet at least once in each three months at such regular meeting times and places as the Council may provide, or as the Board of Transportation may otherwise provide.

The Secondary Roads Council shall have the duty of adopting annual work programs for secondary roads in each county. Each Board of County Commissioners shall be consulted in preparing the annual work programs and in case of any disagreement, the Board of County Commissioners may petition the Board of Transportation for a review. The Board shall make a determination which shall be final. In all other cases, work or action as adopted by the Secondary Roads Council shall proceed as planned, provided that any action taken by the Secondary Roads Council is subject to review by the Board of Transportation. Any action taken by the council may be overruled by a majority of the Board. The annual work programs and projects adopted shall be followed by the Department of Transportation and Highway Safety.”

Sec. 2. G.S. 143A-99 is amended to read as follows:

“§ 143A-99. *Succession of Powers and Duties of State Highway Commission.*—The Board of Transportation shall succeed to all rights, powers, and duties heretofore vested in the State Highway Commission.”

Sec. 3. G.S. 136-17 is amended to read as follows:

“§ 136-17(a). *Members of the Board of Transportation Represent Entire State.*—The Chairman and members of the Board of Transportation shall represent the entire State in highway matters and not represent any particular person, persons, or area. The Board shall, from time to time, provide that one or more of its members or representatives shall publicly hear any person or persons concerning highway matters in each of said geographic areas of the State.

“§ 136-17(b). *Statewide Road System, Policies.*—The Department of Transportation and Highway Safety shall develop and maintain a statewide system of roads and highways commensurate with the needs of the State as a whole and it shall not sacrifice the general statewide interest to the purely local desires of any particular area. The Board of Transportation shall formulate general policies and plans for a statewide system of highways. The Board shall formulate policies governing the construction, improvement and maintenance of roads and highways of the State with due regard to farm-to-market roads and school bus routes.

“§ 136-17(c). *Budget and Appropriations.*—The Director of the Budget shall include in the ‘Budget Appropriations Bill’ an enumeration of the purposes or objects of the proposed expenditures for each of the construction and maintenance programs for that budget period for the State primary, secondary, and urban road systems. The State primary system shall include all portions of the State Highway System located outside municipal corporate limits which are designated by NC, US or Interstate numbers. The State secondary system shall include all of the State Highway System located outside municipal corporate limits that is not a part of the State primary system. The State urban system shall include all portions of the State Highway System located within municipal corporate limits.

All construction and maintenance programs for which appropriations are requested shall be enumerated separately in the budget. Programs that are entirely State funded shall be listed separately from those programs involving the use of Federal-aid funds. Proposed appropriations of State matching funds for each of the Federal-aid construction programs shall be enumerated separately as well as the Federal-aid funds anticipated for each program in order that the total construction requirements for each program may be provided for in the budget. Also, proposed State matching funds for the highway planning and research program shall be included separately along with the anticipated Federal-aid funds for that purpose.

Other program categories for which appropriations are requested, such as, but not limited to, maintenance, channelization and traffic control, bridge maintenance, public service and access road construction, and ferry operations shall be enumerated in the budget.

Notwithstanding any of the provisions of this act, the Board of Transportation shall have such powers as are necessary to comply fully with the provisions of present or future Federal aid acts.

The Board of Transportation in its discretion may alter any dollar amount set forth in the ‘Budget Appropriations Bill’ for any of the foregoing purposes, provided that a report of all alterations, setting forth the reason or reasons for each, shall be submitted to the House and Senate Roads Committee and the House and Senate Appropriations Subcommittee on Roads within three months after the close of the fiscal year, and provided further that no alteration may exceed ten percent (10%) of the original figure without the concurrence of the Advisory Budget Commission. The ‘Budget Appropriations Bill’ shall also contain the proposed appropriations of State funds for use in each county for maintenance and construction of secondary roads, to be allocated in accordance with G.S. 136-17(f) and (g). State funds appropriated for secondary roads shall not be transferred nor used except for the construction and maintenance of secondary roads in the county for which they are allocated pursuant to G.S. 136-17(f) and (g).

In the event receipts and increments to the State Highway fund shall be more than the appropriations made for the preceding fiscal year, such excesses shall be allocated by the Director of the Budget to the Board of Transportation for school and industrial access roads and unforeseen happenings or state of affairs requiring prompt action, with fifty percent of the balance to be allocated to the State Secondary Roads Program on the basis of need as determined by the Board of Transportation and the remaining fifty percent to be allocated in accordance with G.S. 136-17(f).

“§ 136-17(d). *Annual Maintenance Program, State Primary, Urban System.*—The Department of Transportation and Highway Safety shall make a study of the maintenance needs and costs of the State primary and urban systems. On the basis of the costs and proposed appropriations, the Department of Transportation and Highway Safety shall develop a statewide annual maintenance program for the State Primary and Urban Systems which shall be subject to the approval of the Board of Transportation and shall take into consideration the general maintenance needs, the special maintenance needs and vehicular traffic and other factors deemed pertinent. The Department of Transportation and Highway Safety, from time to time, shall restudy the costs and criteria used as a basis for its annual maintenance program. Copies of the annual maintenance program shall be made available to members of the House and Senate Road Committees and to the members of Appropriations Sub-Committees for highway matters, as well as other interested parties, upon request at the time the ‘Budget Appropriations Bill’ is presented. Each Division Engineer, at the end of the fiscal year, shall certify the maintenance of highways in his division in accordance with the annual work program, along with the explanations of any deviations.

“§ 136-17(e). *Annual Construction Program, State Primary, Urban Systems.*—The Department of Transportation and Highway Safety shall develop an annual construction program for the state funded improvements on the primary and urban system highways and for all Federal Aid Construction programs which shall be approved by the Board of Transportation. It shall include a statement of the immediate and long-range goals. The Department shall develop criteria for determining priorities of projects to insure that the long-range goals and the statewide needs as a whole are met, which shall be approved by the Board of Transportation. The Annual Construction Program shall list all projects according to priority. A brief description of each project shall be given, identifying the highway number, county, nature of the improvement and the estimated cost of the project shall be indicated. Copies of the most recent annual work program shall be made available to the members of the House and Senate Committees on Roads and to members of the House and Senate Appropriations Sub-Committees for highway matters, at the time the ‘Budget Appropriations Bill’ is presented. The Department of Transportation and Highway Safety shall make annual reports after the completion of the fiscal year to be made available to the Legislative Committees and Sub-Committees for highway matters, County Commissioners, and other persons upon request. These reports shall indicate the expenditure on each of the projects and the status of all projects set out in the work program.

“§ 136-17(f). *Secondary Roads, Mileage Study, Allocation of Funds.*—Before July 1, in each calendar year, the Department of Transportation and Highway Safety shall make a study of all State maintained unpaved roads in the State. The study shall determine the number of miles of unpaved State maintained roads in each county, and the total number of miles of unpaved State maintained roads in the State. Except for Federal aid programs, the Department shall allocate all secondary road construction funds on the basis of a formula using the study figures. The allocation shall be as follows: each county shall receive a percentage of the total funds available for totally State-funded secondary road construction, the percentage to be determined as a factor of the number of miles of unpaved State-maintained secondary roads in the county

divided by the total number of miles of unpaved State-maintained secondary roads in the State. Copies of the Department study of unpaved State-maintained secondary roads and copies of the individual county allocations shall be made available to newspapers having general circulation in each county.

“§ 136-17(g). The Department of Transportation and Highway Safety shall develop a uniformly applicable formula for the allocation of secondary roads maintenance funds for use in each county. The formula shall take into consideration the number of paved and unpaved miles of secondary roads in each county and such other factors as experience may dictate.

“§ 136-17(h). *Secondary Roads, Annual Work Program.*—The Department of Transportation and Highway Safety shall be responsible for developing criteria for improvements and maintenance of secondary roads. The criteria shall be adopted by the Secondary Roads Council before it shall become effective. The Department of Transportation and Highway Safety shall be responsible for developing annual work programs for both construction and maintenance of secondary roads in each county in accordance with criteria developed. It shall reflect the long-range and immediate goals of the Department of Transportation and Highway Safety. Projects on the annual construction program for each county shall be rated according to their priority based upon the secondary road criteria and standards which shall be uniform throughout the State. Tentative construction projects and estimated funding shall also be listed in accordance to priority. The annual construction program shall be adopted by the Secondary Roads Council before it shall become effective.

“§ 136-17(i). *Submission of Secondary Roads Construction Programs to the County Commissioners.*—Representatives of the Secondary Roads Council and of the Department of Transportation and Highway Safety shall meet with the Board of County Commissioners at a regular or special meeting of the Board of County Commissioners, notice of which meeting shall be published in a newspaper published in or having a general circulation in the county once a week for two succeeding weeks prior to the meeting and there discuss and advise, with the Board of County Commissioners and other citizens present, proposed plans and proposals in the annual construction programs for the county. After the discussions, the Board of County Commissioners shall make a written recommendation to the Secondary Roads Council as to the expenditure of funds for work in the county, and the Secondary Roads Council shall observe and follow such recommendations insofar as they are compatible with its general plans, standards, criteria and available funds, but having due regard to development plans of the county and to the maintenance and improvement of all existing roads in the county. After giving the Board of County Commissioners an opportunity to review the programs and make recommendations, the Secondary Roads Council shall adopt the annual programs. The Board of County Commissioners may petition the Board of Transportation for consideration for changes in the annual work program not allowed by the Secondary Roads Council, and the determination of the Board of Transportation shall be final. Upon final adoption of the annual work program, the same shall be published and it shall be followed, unless changes are approved by the Secondary Roads Council and notice of any changes is given the Board of County Commissioners. The Board of County Commissioners may petition the Board of Transportation for review of any changes to which it does not consent, and the determination of the Board of Transportation shall be final. The most recent annual work

programs adopted shall be submitted to the House and Senate Roads Committee and the House and Senate Appropriations Sub-Committee on Roads at the time of introduction of the 'Budget Appropriations Bill'. The Department of Transportation and Highway Safety shall make available the construction work program in each county to the newspapers having a general circulation in the county.

"§ 136-17(j). *Secondary Roads, Annual Statements.*—The Department of Transportation and Highway Safety shall, within three months after the close of each fiscal year, prepare and file with the Board of County Commissioners a statement setting forth (a) each secondary highway designated by number, located in the county upon which the paving or improvement was made during the fiscal year; (b) the amount expended for improvements of each such secondary highway during the fiscal year; and (c) the nature of such improvements. The Department of Transportation and Highway Safety, in its annual report, shall report on each secondary road construction project including the stage of completion and funds expended. The pertinent portion of these reports for each county shall be made available to the Board of County Commissioners.

"§ 136-17(k). *Additions to Secondary Road System.*—The Secondary Roads Council shall adopt uniform statewide or regional standards and criteria which the Department of Transportation and Highway Safety shall follow for additions to the Secondary Road System. The standards and criteria shall be subject to approval of the Board of Transportation. These standards and criteria shall be promulgated and copies made available for free distribution.

"§ 136-17(l). *Right-of-Way Acquisitions, Preliminary Engineering Annual Report.*—The Department of Transportation and Highway Safety shall include in its annual report projects for which preliminary engineering has been performed more than two years but where there has been no right-of-way acquisition, projects where right-of-way has been acquired more than two years but construction contracts have not been let. The report shall include the year or years in which the preliminary engineering was performed and the cost incurred, the number of right-of-way acquisitions for each project, the dates of the first and last acquisition and the total expenditure for right-of-way acquisition. The report shall include the status of the construction project for which the preliminary engineering was performed or the right-of-way acquired and the reasons for delay, if any."

Sec. 4. Chapter 136 is amended by adding a new section to be numbered G.S. 136-17.2 and to read as follows:

"§ 136-17.2. *Outside Counsel.*—The Attorney General is authorized to employ outside counsel as he deems necessary for the purpose of obtaining title abstracts and title certificates for highway rights-of-way and for assistance in the trial of condemnation cases involving the acquisition of rights-of-way and other interests in land for the purpose of highway construction. Compensation, as approved by the Attorney General, shall be paid out of the appropriations from the Highway Fund."

Sec. 5. Conforming Changes:

(a) Whenever the words "North Carolina State Highway Commission", "Commission", "State Highway Commission of North Carolina", "Highway Commission", or "Highway Department", when referring to the State Highway Commission, are used or appear in any statute or law of this State except in the

provisions of this act, the same shall be deleted and the words Board of Transportation shall be inserted in lieu thereof, unless otherwise provided for in this act.

(b) Except as appears in this act, whenever the words "Chairman of the Highway Commission", or "Chairman of the State Highway Commission", or "Chairman" when referring to the foregoing, are used or appear in any statute or law of this State, the same shall be deleted and the words "Chairman of the Board of Transportation" shall be inserted in lieu thereof, unless otherwise provided for in this act.

Sec. 6. G.S. 136-13 shall be rewritten to read as follows:

"§ 136-13. *Malfeasance of Officers, Employees, Members of the Secondary Roads Council, Board of Transportation, Contractors, and Others.*—(a) It is unlawful for any person, firm, or corporation to directly or indirectly corruptly give, offer, or promise anything of value to any officer or employee of the Department of Transportation and Highway Safety or member of the Secondary Roads Council or Board of Transportation, or to promise any officer, employee, or member of the Board of Transportation to give anything of value to any other person with intent:

- (1) to influence any official act of any officer or employee of the Department of Transportation and Highway Safety or member of the Secondary Roads Council or Board of Transportation;
- (2) to influence such member of the Secondary Roads Council, Board of Transportation, or any officer or employee of the Department of Transportation and Highway Safety to commit or aid in committing, or collude in, or allow, any fraud, or to make opportunity for the commission of any fraud on the State of North Carolina; and
- (3) to induce a member of the Secondary Roads Council, Board of Transportation, or any officer or employee of the Department of Transportation and Highway Safety to do or omit to do any act in violation of his lawful duty.

(b) It shall be unlawful for any member of the Secondary Roads Council, Board of Transportation, or any officer or employee of the Department of Transportation and Highway Safety, directly or indirectly, to corruptly ask, demand, exact, solicit, accept, receive, or agree to receive anything of value for himself or any other person or entity in return for:

- (1) being influenced in his performance of any official act;
- (2) being influenced to commit or aid in committing, or to collude in, or allow, any fraud, or to make opportunity for the commission of any fraud on the State of North Carolina; and
- (3) being induced to do or omit to do any act in violation of his official duty.

(c) The violation of any of the provisions of this section shall be cause for forfeiture of public office and shall be a felony punishable by a fine of not more than twenty thousand dollars (\$20,000) or three times the monetary equivalent of the thing of value, whichever is greater, or imprisonment of not more than ten years, or both such fine and imprisonment."

Sec. 7. G.S. 136-13.1 shall be rewritten to read as follows:

"§ 136-13.1 *Use of Position to Influence Elections or Political Action.*—No member of the Secondary Roads Council, Board of Transportation nor any officer or employee of the Department of Transportation and Highway Safety

shall be permitted to use his position to influence elections or the political action of any person."

Sec. 8. G.S. 136-14 is amended by striking the words "Member of the Highway Commission", "Member of said Commission", or "Member of the State Highway Commission", and substituting in lieu thereof the words "Member of the Board of Transportation or Secondary Roads Council". Whenever in G.S. 136-14 the words "said Commission" or "State Highway Commission" otherwise appear, they shall be deleted and the words "the Department of Transportation and Highway Safety" shall be inserted in lieu thereof.

Sec. 9. G.S. 136-14.1 shall be rewritten to read as follows:

"§ 136-14.1. *Highway Engineering Divisions.*—For purposes of administering the highway activities, the Department of Transportation and Highway Safety shall have authority to designate boundaries of Highway Engineering Divisions for the proper administration of its duties."

Sec. 10. G.S. 136-15 shall be rewritten to read as follows:

"§ 136-15. *Establishment of Administrative Districts.*—The Department of Transportation and Highway Safety may establish such administrative districts as in their opinion shall be necessary for the proper and efficient performance of highway duties. The Department may from time to time change the number of such districts, or it may change the territory embraced within the several districts, when in its opinion it is in the interest of efficiency and economy to make such change."

Sec. 11. The words "construction fund of said Commission" shall be deleted and the words "State Highway Fund" shall be inserted in lieu thereof in paragraph 3, lines 13 and 14 of G.S. 136-19.

Sec. 12. The words "under the State Highway Commission's Seal by the Secretary of the State Highway Commission" shall be deleted and the words "by the Department of Transportation and Highway Safety" shall be inserted in lieu thereof on lines 5 and 6 of G.S. 136-19.4(a).

Sec. 13. The word "secretary" shall be deleted and the word "Department" shall be inserted in lieu thereof on line 7 of G.S. 136-19.4(a).

Sec. 14. The words "Secretary to the Commission", shall be deleted and the words "Department of Transportation and Highway Safety" shall be inserted in lieu thereof in G.S. 136-19.4(d).

Sec. 15. The words "Under Seal of the State Highway Commission" shall be deleted from G.S. 136-19.4(d), line 5.

Sec. 16. The words "State Highway Purchasing Officer" shall be deleted and the words "Secretary of Transportation" shall be inserted in lieu thereof in G.S. 136-28.1(b) and (c).

Sec. 17. The words "with the approval of the State Highway Commission" shall be deleted from line 13 of G.S. 136-29(a).

Sec. 18. The words "with the approval of the State Highway Commission" shall be deleted from lines 14 and 15 of G.S. 136-29(a).

Sec. 19. The words "State Highway Commission funds" shall be deleted from line 20 of G.S. 136-66.5(a) and the words "The State Highway Fund" shall be inserted in lieu thereof.

Sec. 20. The last sentence of G.S. 136-97 shall be deleted.

Sec. 21. The word "Commissioner" shall be deleted and the word "Department" shall be inserted in lieu thereof in paragraph 2 of G.S. 20-144, line 5.

Sec. 22. G.S. 136-4 is rewritten as follows:

"§ 136-4. *State Highway Administrator.*—There shall be a State Highway Administrator, who shall be a career official and who shall be the administrative officer of the Department of Transportation and Highway Safety for highway matters. The State Highway Administrator shall be appointed by the Board of Transportation and he may be removed at any time by the Board of Transportation. He shall be paid a salary fixed by the Board of Transportation subject to the approval of the Advisory Budget Commission. The State Highway Administrator shall have such powers and perform such duties as the Board of Transportation shall prescribe."

Sec. 22 1/2. Whenever the words "Chairman of the State Highway Commission" and "Chairman" appear in G.S. 136-63, in lieu thereof, "Council" shall be inserted in lieu thereof. G.S. 136-63 is further amended by deleting the words "have opportunity to discuss the matter with the State Highway Commission" appearing in the next to the last sentence of the section and by inserting in lieu thereof the words "have the right to petition the Board of Transportation for review".

Sec. 23. The following sections of the General Statutes of North Carolina are hereby repealed: G.S. 136-1, G.S. 136-1.1, G.S. 136-2, G.S. 136-3, G.S. 136-4.1, G.S. 136-4.2, G.S. 136-4.3, G.S. 136-5, G.S. 136-60, and G.S. 136-61.

Sec. 23 1/2. Chapter 708 of the 1971 Session Laws is hereby amended by deleting the last two sentences in the next to the last paragraph of Page 820, beginning with the word "In" in line 31, and ending with the word and numbers "7, and XII" in line 42, and by inserting in lieu thereof the following: "In the event receipts and increments in the State Highway Fund for Fiscal Year 1972-1973 shall exceed the appropriations made for that fiscal year, such excesses shall be allocated by the Director of the Budget to the Board of Transportation in accordance with the provisions of G.S. 136-17(c)."

Sec. 24. This act shall become effective July 1, 1973, provided that the requirements of Sections 136-17(c), (d), (e), (f), (h), (i), (j) and (l) shall be first implemented on January 1, 1974, for the following fiscal year.

In the General Assembly read three times and ratified, this the 15th day of May, 1973.

H. B. 1078 CHAPTER 508

AN ACT TO AMEND G.S. 130-17(e) WITH REGARD TO THE RENDERING OF SERVICES TO GOVERNMENTAL OR PRIVATE AGENCIES AND INDIVIDUALS BY LOCAL BOARDS OF HEALTH.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-17(e) is hereby amended as follows:

(1) by deleting from line 2 of the first paragraph the words "the Veteran's Administration of any other" and inserting in lieu thereof the word "any";

(2) by deleting from lines 6 and 7 of the first paragraph the words "and shall not apply to services required by statute, regulation, or ordinance to be rendered or received" and substituting in lieu thereof the following: "but shall not apply

where the charging of a fee for a particular service is specifically prohibited by statute, regulation, or ordinance”;

(3) by deleting from line 9 of the first paragraph the words “State Health Director” and inserting in lieu thereof the words “appropriate board or boards of county commissioners”.

Sec. 2. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 15th day of May, 1973.

H. B. 1092

CHAPTER 509

AN ACT TO REQUIRE AN ELECTION ON OPERATION OF LIQUOR CONTROL STORES IN THE CITY OF STATESVILLE, AND FOR THE ALLOCATION OF PROCEEDS FROM THE OPERATION OF SUCH STORES.

The General Assembly of North Carolina enacts:

Section 1. The Board of Elections, authorized to hold and conduct elections in the City of Statesville, shall hold a special election on September 11, 1973, in the City of Statesville on the question of whether liquor control stores shall operate in the City.

The election shall be conducted as provided in Section 2 of Chapter 534, Session Laws of 1965, except the notice required shall be published in a newspaper having general circulation in the City, and the notice shall be published twice beginning at least 2 days before the registration books close.

Sec. 2. If a majority of the votes cast be “FOR” City Liquor Control Stores, then the operation of such stores shall continue, and Section 3 of this act shall become effective upon the certification of the results by the Board of Elections. If a majority of the votes be “AGAINST” City Liquor Control Stores, then the operation of such stores shall cease as provided in Section 3 of Chapter 534, Session Laws of 1965.

Sec. 3. Section 6 of Chapter 534, Session Laws of 1965 is hereby rewritten to read:

“Sec. 6. After deducting from the proceeds of sales the salaries, expenses, and working capital as provided in G.S. 18A-18, and the amount for law enforcement, education and rehabilitation, as provided in G.S. 18-17(14), the net profits derived from the operation of liquor stores in Statesville shall be distributed quarterly as follows:

1. Twenty-five percent (25%) shall be turned over to the Board of Trustees of Mitchell Community College to be used to retire the outstanding library debt, for land acquisitions and capital improvements, as the needs arise.

2. Twenty-five percent (25%) shall be turned over to the Statesville Board of Education for use in its discretion to improve the standards of the city schools.

3. The remaining net profits shall be turned over to the City Council of the City of Statesville to be allocated in its discretion among the following:

- a. The Arts and Science Museum.
- b. The Sheltered Workshop for the handicapped and mentally retarded.
- c. The Iredell County Mental Health Clinic.
- d. The Iredell County Public Library.
- e. The Statesville Recreation Commission.”

Sec. 4. This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of May, 1973.

H. B. 1166**CHAPTER 510**

AN ACT TO AUTHORIZE A TECHNICAL AMENDMENT OF SECTION 7 (c)(1) OF CHAPTER 909, SESSION LAWS OF 1971 (CLEAN WATER BOND ACT) TO PERMIT ASSISTANCE GRANTS TO LOCAL UNITS OF GOVERNMENT FOR THE CONSTRUCTION AND IMPROVEMENT OF WASTEWATER TREATMENT WORKS FROM FUNDS HERETOFORE APPROVED BY THE GENERAL ASSEMBLY AND A VOTE OF THE PEOPLE.

Whereas, the 1971 General Assembly, by enactment of Chapter 909, Session Laws of 1971 (Clean Water Bond Act of 1971), authorized the issuance of one hundred fifty million dollars (\$150,000,000) in bonds of the State, subject to approval by the people, to be used for State assistance grants to local units of government for the construction and improvement of wastewater treatment works, wastewater collection systems, and public water supply systems; and

Whereas, the issuance of said bonds was approved by a vote of the people in May, 1972; and

Whereas, Section 7(c)(1) of said Chapter 909 allocated fifty million dollars (\$50,000,000) of the funds realized from the sale of the bonds for grants to be used exclusively for the construction and improvement of wastewater treatment works; and

Whereas, under the existing language of Section 7(c)(1), grants may be made pursuant thereto only when required by federal law as a condition of a federal grant; and

Whereas, the Congress amended the federal law in 1972 to remove the requirement that federal grants be conditioned upon the availability of state grant funds; and

Whereas, the amendment of federal law removed the condition upon which state grants could be made under the provisions of Section 7(c)(1) of the act, with the result that approximately thirty million dollars (\$30,000,000) of the fifty million dollars (\$50,000,000) authorized for state grants for wastewater treatment works may not be expended nor bonds issued for such purpose; and

Whereas, the existing technical language of the federal amendment and of Section 7(c)(1) of the act will result in a reduction by approximately sixty percent (60%) of the funds intended and authorized by the General Assembly and the people to be used as grants to local units of government for the construction and improvement of wastewater treatment works; and

Whereas, the reduction in funds available for such purposes will have a massive adverse effect upon the water pollution control program of the State and local units of government in that it will impede or prevent the control, prevention and abatement of water pollution and the protection and enhancement of water quality; and

Whereas, the accomplishment of the water pollution control program is vital to the public interest and necessary to the public health, safety and welfare; and

Whereas, the General Assembly deems it necessary to amend the technical language of Section 7(c)(1) in order that all of the funds heretofore authorized

by the General Assembly and the people for local assistance grants for the improvement and construction of wastewater treatment works may be made available for such purposes; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Subject to a favorable vote of a majority of the qualified voters of the State who shall vote thereon in an election called and held as hereinafter provided and for the purpose of permitting the expenditure of funds heretofore authorized by a vote of the General Assembly and the people for grants to units of government for the construction, improvement or expansion of wastewater treatment works, Section 7(c)(1) of the Clean Water Bond Act of 1971 (Chapter 909, 1971 Session Laws) is amended to read as follows:

"Fifty million dollars (\$50,000,000) of the funds allocated to the Pollution Control Account shall be used exclusively for the purpose of providing the State's share of the funds required for an approved wastewater treatment works project to qualify for federal grants; provided, however, that any funds which cannot be used exclusively for such purpose shall be used exclusively for the purpose of grants to pay a portion of the nonfederal share (not to exceed the limitations set forth in subsection (a)(2) of Section 7 of this Act) of the eligible construction costs of approved wastewater treatment works projects which qualify for federal grants."

Sec. 2. The question of the amendment of Section 7(c)(1) of the Clean Water Bond Act of 1971 shall be submitted to the qualified voters of the State of North Carolina at an election to be held on a date not later than November 30, 1973, to be fixed by the Governor by a proclamation issued by him; provided, that the election herein provided for may be held on the same day as any other State, county, municipal or district election, and any other State, county, municipal or district election may be validly held on the same day as the election provided for in this act. Notice of the election shall be given by publication at least twice in a newspaper published in each county in the State or having a general circulation therein, and the election and the registration of voters therefor shall be held under and in accordance with the general laws of the State, except that no absentee ballots shall be allowed in said election. The State Board of Elections shall cause to be printed and distributed the ballots which are to be used in the election, which ballots shall be substantially in the following form:

OFFICIAL BALLOT

AMENDMENT OF CLEAN WATER BOND ACT

Instructions for Marking Ballot

- (a) To vote in favor of the amendment, make a cross (X) mark in the square opposite the words "For the amendment of Section 7(c)(1) of the Clean Water Bond Act of 1971 to permit the expenditure of funds heretofore authorized by a vote of the General Assembly and the people for grants to units of government for the construction, improvement or expansion of wastewater treatment works."
- (b) To vote against the amendment, make a cross (X) mark in the square opposite the words "Against the amendment of Section 7(c)(1) of the Clean Water Bond Act of 1971 to permit the expenditure of funds heretofore authorized by a vote of the General Assembly and the people

for grants to units of government for the construction, improvement or expansion of wastewater treatment works.”

(c) If you tear or deface or wrongly mark this ballot, return it and get another.

☐ FOR the amendment of Section 7(c)(1) of the Clean Water Bond Act of 1971 to permit the expenditure of funds heretofore authorized by a vote of the General Assembly and the people for grants to units of government for the construction, improvement or expansion of wastewater treatment works.

☐ AGAINST the amendment of Section 7(c)(1) of the Clean Water Bond Act of 1971 to permit the expenditure of funds heretofore authorized by a vote of the General Assembly and the people for grants to units of government for the construction, improvement or expansion of wastewater treatment works.

(Facsimile Signature)

Chairman, State Board of Elections

Those voting in the election who are in favor of the amendment shall vote by making an X in the square opposite the words “For the amendment of Section 7(c)(1) of the Clean Water Bond Act of 1971 to permit the expenditure of funds heretofore authorized by a vote of the General Assembly and the people for grants to units of government for the construction, improvement or expansion of wastewater treatment works.”

Those opposed to the amendment shall vote by making an X in the square opposite the words “Against the amendment of Section 7(c)(1) of the Clean Water Bond Act of 1971 to permit the expenditure of funds heretofore authorized by a vote of the General Assembly and the people for grants to units of government for the construction improvement or expansion of wastewater treatment works.”

Notwithstanding the foregoing provisions of this subsection, voting machines may be used in accordance with rules and regulations prescribed by the State Board of Elections.

If a majority of those voting thereon in the election shall vote in favor of the amendment, Section 7(c)(1) of Chapter 909, Session Laws of 1971, shall be amended as hereinbefore provided. In the event a majority of those voting thereon in the election shall vote against the amendment, said Section 7(c)(1) shall not be amended.

The result of the election shall be canvassed and declared as provided by law for the holding of elections for State officers and the result thereof certified by the State Board of Elections to the Secretary of State of North Carolina, in the manner and at the time provided by the general election laws of the State.

Sec. 3. If a majority of those voting thereon in the election shall vote in favor of the amendment, funds shall be allocated in the amount and used for the purposes set forth in Section 7(c)(1) of the Clean Water Bond Act of 1971 as amended hereby.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of May, 1973.

H. B. 311

CHAPTER 511

AN ACT TO ALLOW COMMERCIAL WINERIES IN NORTH CAROLINA
AND TO ESTABLISH LICENSE REQUIREMENTS AND TAXATION.

The General Assembly of North Carolina enacts:

Section 1. There is hereby enacted a new G.S. 18A-36.1 to read as follows:

“§ 18A-36.1. *Commercial wineries.*—(a) In addition to the authority to make native wines conferred in G.S. 18A-36, it shall be lawful for any commercial winery after securing a permit from the State Board of Alcoholic Control to manufacture and distribute to wholesalers holding valid wine permits issued by the State Board of Alcoholic Control any wine, fortified or unfortified, after compliance with the provisions of this Chapter and other applicable law. The sale of wine, fortified and unfortified, to nonresident wholesalers is authorized when the purchase is not for resale in this State.

(b) Commercial winery means any business establishment which manufactures and sells wines for consumption by persons other than the families or guests of the person, firm or corporation owning or operating the winery.

(c) A commercial winery is authorized to grow crops, purchase crops and other materials, manufacture, possess and transport wine without limitation as to quantity except that any wine in transport shall be subject to the provisions of subdivisions (1) through (4) of G.S. 18A-29(b).

(d) Any applicable law with regard to tests for quality of the wine shall apply to wine possessed by commercial wineries in this State.

(e) The State Board of Alcoholic Control shall have all authority with regard to the issuance, denial, suspension and revocation of permits for commercial wineries which the Board has with regard to any permit issued by the Board.”

Sec. 2. A resident manufacturer of fortified or unfortified wine may sell “short-filled” packages to its employees for the sole use of said employees, members of their families and bona fide guests in this State, provided that such manufacturer sell only such “short-filled” packages on which the appropriate North Carolina taxes have been paid or will be paid, based upon the size of the bottle or container short-filled. Any sale made to any employee of the manufacturer under this section shall not be construed as a retail or wholesale sale under Article 2C of Chapter 105, and Chapter 18A of the General Statutes, and such manufacturer shall not be required by reason of such sale to obtain a permit under Chapter 18A or license under Article 2C of Chapter 105.

Sec. 3. The second paragraph of G.S. 105-113.86(i) is amended to read as follows:

“The Commissioner of Revenue shall promulgate rules and regulations to relieve licensed resident manufacturers from the liability of paying the excise taxes levied under this section on malt beverages and unfortified wine that are furnished free of charge to customers, visitors and employees on the manufacturers’ licensed premises for consumption on said premises.”

Sec. 4. G.S. 105-277 is amended by adding the following subsection thereto:

“(e) Vinous and other fruit products. Any vinous or other fruit product held in storage in North Carolina by any manufacturer or processor for manufacturing or processing, which product is of such nature as customarily to require storage and processing for periods of more than one year in order to age

or condition the product for sale and consumption, is hereby designated a special class of property under authority of Article V, Section 2(2), of the North Carolina Constitution. Vinous and other fruit products so classified shall be taxed uniformly as a class in each local taxing unit at sixty percent (60%) of the rate levied for all purposes upon real property and other tangible personal property by the taxing unit in which the products are listed for taxation."

Sec. 5. G.S. 105-113.86(o) is amended by rewriting the first paragraph thereof to read as follows:

"(o) In addition to the license taxes herein levied, a tax is hereby levied upon the sale of unfortified wine at the rate of sixty cents (\$.60) per gallon. Provided, however, that the tax upon the sale of unfortified wine manufactured in North Carolina and composed principally of fruits or berries grown in North Carolina shall be taxed at the rate of five cents (\$.05) per gallon."

Sec. 6. G.S. 105-113.95 is rewritten in its entirety, to read as follows:

"§ 105-113.95. *Tax on fortified wines.*—In addition to all other taxes levied in this Article, there is hereby levied a tax upon the sale of fortified wines of seventy cents (\$.70) per gallon. Provided, however, that the tax upon the sale of fortified wine manufactured in North Carolina and composed principally of fruits or berries grown in North Carolina shall be taxed at the rate of five cents (\$.05) per gallon."

Sec. 7. G.S. 105-113.70 is rewritten in its entirety, to read as follows:

"§ 105-113.70. *Resident manufacturers of malt beverages and unfortified wines.*—(a) The brewing or manufacture of malt beverages shall be permitted in this State upon the payment of an annual license tax to the Commissioner of Revenue in the sum of five hundred dollars (\$500.00) for a period ending on the next succeeding thirtieth day of April and annually thereafter. Persons licensed under this subsection may sell such beverages in barrels, bottles, or other closed containers only to persons licensed under the provisions of this Article to sell at wholesale, and no other license tax shall be levied upon the business taxed in this subsection. Provided, that pursuant to the rules and regulations of the State Board of Alcoholic Control, the sale of malt beverages to nonresident wholesalers is authorized when the purchase is not for resale in this State. The sale of malt, hops, and other ingredients used in the manufacture of malt beverages is hereby permitted and allowed.

When a licensed resident manufacturer of malt beverages procures a proper license under this subsection, said manufacturer may receive the malt beverages that are manufactured by him at some point outside this State, but within the United States, for transshipment to dealers in this or other states, provided that such resident manufacturer is actually engaged in the manufacturing in this State of malt beverages. Such shipments of malt beverages for transshipment to other states shall be kept segregated by the resident manufacturer in his warehouse from any such North Carolina taxpaid beverages and shall comply with any and all rules and regulations promulgated by the Commissioner of Revenue and the State Board of Alcoholic Control.

(b) The manufacture of unfortified wine shall be permitted in this State upon the payment of an annual license tax to the Commissioner of Revenue in the sum of one hundred dollars (\$100.00) for a period ending on the next succeeding thirtieth day of April and annually thereafter. Persons licensed under this section may sell such wine in barrels, bottles, or other closed containers only to persons licensed under the provisions of this Article or under the laws of any

other state to sell at wholesale and no other license tax shall be levied upon the business taxed in this section. Provided, that pursuant to the rules and regulations of the State Board of Alcoholic Control, the sale of fortified or unfortified wine to nonresident wholesalers is authorized when the purchase is not for resale in this State. The sale of ingredients used in the manufacture of unfortified wine is hereby permitted and allowed.

Nothing in this Article shall be construed to impose any tax upon any resident citizen of this State who makes native wines for the use of himself, his family and his guests from fruits, grapes and berries cultivated or grown wild upon his own land."

Sec. 8. Sections 1, 2, 3, 5, 6 and 7 of this act shall become effective upon ratification. Section 4 of this act shall become effective on January 1, 1974.

In the General Assembly read three times and ratified, this the 16th day of May, 1973.

H. B. 514

CHAPTER 512

AN ACT TO AMEND ARTICLE 25 OF CHAPTER 153, NORTH CAROLINA GENERAL STATUTES, TO PERMIT METROPOLITAN SEWERAGE DISTRICTS TO ENCOMPASS LAND IN MORE THAN ONE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153-297 is hereby amended to read as follows:

"§ 153-297. *Procedure for creation; resolutions and petitions for creation; notice to and action by the Board of Water and Air Resources; notice and public hearing; resolutions creating districts; actions to set aside proceedings.*—Any two or more political subdivisions in one or more counties, or any political subdivision or subdivisions and any unincorporated area or areas located within one or more counties, which political subdivisions or areas need not be contiguous, may petition for the creation of a metropolitan sewerage district under the provisions of this Article by filing with the board or boards of commissioners of the county or counties within which the proposed district will lie:

- (1) A resolution of the governing body of each such political subdivision stating the necessity for the creation of a metropolitan sewerage district under the provisions of this Article in order to preserve and promote the public health and welfare within the area of the proposed district, and requesting the creation of a metropolitan sewerage district having the boundaries set forth in said resolution, and
- (2) If any unincorporated area is to be included in such district, a petition, signed by not less than fifty-one per centum (51%) of the freeholders resident within such area, defining the boundaries of such area, stating the necessity for the creation of a metropolitan sewerage district under the provisions of this Article in order to preserve and promote the public health and welfare within the proposed district, and requesting the creation of a metropolitan sewerage district having the boundaries set forth in such petition for such district.

Upon the receipt of such resolutions and petitions requesting the creation of a metropolitan sewerage district, the board or boards of commissioners, through the chairman thereof, shall notify the North Carolina Board of Water

and Air Resources of the receipt of such resolutions and petitions, and shall request that a representative of the Board of Water and Air Resources hold a joint public hearing with the board or boards of commissioners concerning the creation of the proposed metropolitan sewerage district. The chairman of the Board of Water and Air Resources and the chairman or chairmen of the board or boards of commissioners shall name a time and place within the proposed district at which the public hearing shall be held; provided, however, that where a proposed district lies within more than one county, the public hearing shall be held in the county within which the greater portion of the proposed district lies. The chairman or chairmen of the board or boards of commissioners shall give prior notice of such hearing by posting a notice at least 30 days prior to the hearing at the courthouse of the county or counties within which the district will lie and also by publication at least once a week for four successive weeks in a newspaper having general circulation in the proposed district, the first publication to be at least 30 days prior to such hearing. In the event all matters pertaining to the creation of such metropolitan sewerage district cannot be concluded at such hearing, such hearing may be continued to a time and place within the proposed district determined by the board or boards of commissioners with the concurrence of the representative of the Board of Water and Air Resources.

If, after such hearing, the Board of Water and Air Resources and the board or boards of commissioners shall deem it advisable to comply with the request of such resolutions and petitions, and determine that the creation of a metropolitan sewerage district would preserve and promote the public health and welfare in the area or areas described in such resolutions and petitions, the Board of Water and Air Resources shall adopt a resolution to that effect, defining the boundaries of such district and declaring the territory within such boundaries to be a metropolitan sewerage district under the name and style of “_____

Metropolitan Sewerage District of _____

(County)(Counties)”; provided, that the Board of Water and Air Resources may make minor deviations in the boundaries from those prescribed in the resolutions and petitions upon determination by the Board of Water and Air Resources that such deviations are advisable in the interest of the public health, and provided no such district shall include any political subdivision which has not petitioned for inclusion as provided in this Article.

The Board of Water and Air Resources shall cause copies of the resolution creating the metropolitan sewerage district to be sent to the board or boards of commissioners and to the governing body of each political subdivision included in the district. The board or boards of commissioners shall cause a copy of such resolution of the Board of Water and Air Resources to be published in a newspaper circulating within the district once in each of two successive weeks, and a notice substantially in the following form shall be published with such resolution:

The foregoing resolution was passed by the North Carolina Board of Water and Air Resources on the ____ day of _____, 19____, and was first published on the ____ day of _____, 19____.

Any action or proceeding questioning the validity of said resolution or

the creation of the metropolitan sewerage district therein described must be commenced within 30 days after the first publication of said resolution.

Clerk, Board of Commissioners
for _____ County.

Any action or proceeding in any court to set aside a resolution creating a metropolitan sewerage district, or to obtain any other relief upon the ground that such resolution or any proceeding or action taken with respect to the creation of such district is invalid, must be commenced within 30 days after the first publication of the resolution and said notice. After the expiration of such period of limitation, no right of action or defense founded upon the invalidity of the resolution or the creation of the metropolitan sewerage district therein described shall be asserted, nor shall the validity of the resolution or of the creation of such metropolitan sewerage district be open to question in any court upon any ground whatever, except in an action or proceeding commenced within such period."

Sec. 2. G.S. 153-298 is hereby amended to read as follows:

"§ 153-298. *District board; composition, appointment, terms, oaths and removal of members; organization; meetings; quorum; compensation and expenses of members.*—(a) Appointment of board for district lying wholly or partly outside city or town limits. The district board of a metropolitan sewerage district lying in whole or in part outside the corporate limits of a city or town shall be appointed immediately after the creation of the district in the following manner:

- (1) If the district lies entirely within one county, the board of commissioners shall appoint to the district board three members who are qualified voters residing within the district. The members so appointed shall have terms expiring one year, two years and three years, respectively, from the date of adoption of the resolution of the Board of Water and Air Resources creating the district, and the board of commissioners shall designate the length of the term of each member. Successor members shall be appointed for a term of three years.
- (2) If the district lies in two counties, the board of commissioners of the county in which the largest portion of the district lies shall appoint to the district board two qualified voters residing in the county and district to serve for terms of one year and three years, respectively. The board of commissioners of the county in which the lesser portion of the district lies shall appoint to the district board one qualified voter residing in the county and district to serve for a term of two years. All successor members shall be appointed for a term of three years.
- (3) If the district lies in three or more counties, the board of commissioners of each such county shall appoint one member of the district board. Each member so appointed shall be a qualified voter residing in the district and of the county from which he is appointed and shall serve for a term of three years. Successor members shall be appointed for a term of three years.
- (4) The governing body of each political subdivision, other than counties, lying in whole or in part within the district, shall appoint one member of the district board. No appointment of a member of the district board shall be made by or in behalf of any political subdivision of which the

board or boards of commissioners shall be the governing body. If any city or town within the district shall have a population, as determined from the latest decennial census, greater than that of all other political subdivisions (other than counties) and unincorporated areas within the district, the governing body of such city or town shall appoint three members. All members and their successors appointed by the governing bodies of political subdivisions other than counties shall serve for a term of three years and shall be qualified voters residing in the district and the political subdivision from which they are appointed.

(b) Appointment of board for district lying wholly within city or town limits. Any district lying entirely within the corporate limits of two or more cities or towns shall be governed by a district board consisting solely of members appointed by the governing bodies of such cities or towns and, in addition, one member elected by the appointed members of the district board. The governing body of each constituent city or town of the district shall appoint to the district board two qualified voters residing in the district and the city or town. The members so appointed shall elect, by majority vote, one additional member who shall be a qualified voter residing in the district and one of the constituent cities or towns.

One of the two members initially appointed by the governing body of each constituent city or town shall serve for a term which shall expire 30 days following the next regular election held for election of the governing body by which the member was appointed; and the other member shall serve for a term which shall expire two years thereafter. Successor members shall serve for a term of four years.

The member elected by the district board and his successors in office shall serve for a term of four years.

(c) Reappointment; vacancies; removal; term. Members of a district board may be reappointed. If a vacancy shall occur on a district board, the governing body which appointed the member who previously filled the vacancy shall appoint a new member who shall serve for the remainder of the unexpired term. Any member of a district board may be removed for cause by the governing board that appointed him. All members shall serve until their successors have been duly appointed and qualified.

(d) District board procedures. Each member of the district board, before entering upon his duties, shall take and subscribe an oath or affirmation to support the Constitution and laws of the United States and of this State and to discharge faithfully the duties of his office; and a record of each such oath shall be filed with the clerk or clerks of the board or boards of commissioners.

The district board shall elect one of its members as chairman and another as vice-chairman and shall appoint a secretary and a treasurer who may, but need not, be members of the district board. The officers of secretary and treasurer may be combined. The terms of office of the chairman, vice-chairman, secretary and treasurer shall be as provided in the bylaws of the district board.

The district board shall meet regularly at such places and dates as are determined by the board. Special meetings may be called by the chairman on his own initiative and shall be called by him upon request of two or more members of the board. All members shall be notified in writing at least 24 hours in advance of such meeting. A majority of the members of the district board shall constitute a quorum, and the affirmative vote of a majority of the members of

the district board present at any meeting thereof shall be necessary for any action taken by the district board. No vacancy in the membership of the district board shall impair the right of a quorum to exercise all the rights and perform all the duties of the district board. Each member, including the chairman, shall be entitled to vote on any question. The members of the district board may receive compensation in an amount to be determined by the board, but not to exceed ten dollars (\$10.00) for each meeting attended, and may be reimbursed the amount of actual expenses incurred by them in the performance of their duties."

Sec. 3. G.S. 153-299 is hereby amended to read as follows:

"§ 153-299. *Procedure for inclusion of additional political subdivision or unincorporated area; notice and hearing; elections; actions to set aside proceedings.*—If, at any time subsequent to the creation of a district, there shall be filed with the district board a resolution of the governing body of a political subdivision, or a petition, signed by not less than fifty-one per centum (51%) of the freeholders resident within an unincorporated area, requesting inclusion in the district of such political subdivision or unincorporated area, and if the district board shall favor the inclusion in the district of such political subdivision or unincorporated area, the district board shall notify the board or boards of commissioners of the county or counties within which the district lies and shall file with the board or boards of commissioners and with the Board of Water and Air Resources a report setting forth the plans of the district for extending sewerage service to the political subdivision or unincorporated area. The report shall include:

(a) A map or maps of the district and adjacent territory showing the present and proposed boundaries of the district; the existing major sewer interceptors and outfalls; and the proposed extension of such interceptors and outfalls.

(b) A statement setting forth the plans of the district for extending sewerage services to the territory proposed to be included, which plans shall:

- (1) Provide for extending sewerage service to the territory included on substantially the same basis and in the same manner as such services are provided within the rest of the district prior to inclusion of the new territory.
- (2) Set forth a proposed time schedule for extending sewerage service to the territory proposed to be included.
- (3) Set forth the estimated cost of extending sewerage service to the territory proposed to be included; the method by which the district proposes to finance the extension; the outstanding existing indebtedness of the district, if any; and the valuation of assessable property within the district and within the territory proposed to be included.
- (4) Contain a declaration of intent of the district board to conform with the plans set forth in the report in extending sewerage services to the territory proposed to be included; and a certification by the chairman of the district board to the effect that the matters and things set forth in the report are true to his knowledge or belief.

The board or boards of commissioners, through the chairmen thereof, shall thereupon request that a representative of the Board of Water and Air Resources hold a joint public meeting with the board or boards of commissioners concerning the inclusion of such political subdivision or unincorporated area in the district. The chairman of the Board of Water and

Air Resources and the chairman or chairmen of the board or boards of commissioners shall name a time and place within the district at which the public hearing shall be held. The chairman or chairmen of the board or boards of commissioners shall give prior notice of such hearing by posting a notice at the courthouse door of the county or counties at least 30 days prior to the hearing and also by publication at least once a week for four successive weeks in a newspaper having general circulation in the district and in any such political subdivision or unincorporated area, the first publication to be at least 30 days prior to such hearing. In the event all matters pertaining to the inclusion of such political subdivision or unincorporated area cannot be included at such hearing, such hearing may be continued to a time and place within the district determined by the board or boards of commissioners with the concurrence of the representative of the Board of Water and Air Resources.

If, after such hearing, the Board of Water and Air Resources and the board or boards of commissioners shall determine that the inclusion of such political subdivision or unincorporated area in the district will preserve and promote the public health and welfare, the Board of Water and Air Resources shall adopt a resolution to that effect, defining the boundaries of the district, including such political subdivision or unincorporated area which has filed a resolution or petition as provided for in this section, and declaring such political subdivision or unincorporated area to be included in the district.

If, at or prior to such public hearing, there shall be filed with the district board a petition, signed by not less than ten per centum (10%) of the freeholders residing in the district, requesting an election to be held therein on the question of including any such political subdivision or unincorporated area, the district board shall certify a copy of such petition to the board or boards of commissioners, and the board or boards of commissioners shall request the county board or boards of elections to submit such question to the qualified voters within the district in accordance with the applicable provisions of Chapter 163 of the General Statutes; provided, that the election shall not be held unless the Board of Water and Air Resources has adopted a resolution approving the inclusion of the political subdivision or unincorporated area in the district.

Notice of such election, which shall contain a statement of the boundaries of the territory proposed to be included in the district and the boundaries of the district after inclusion, shall be given by publication once a week for three successive weeks in a newspaper or newspapers having general circulation within the district, the first publication to be at least 30 days prior to the election.

Notice of the resolution of the Board of Water and Air Resources, or in the event that an election pursuant to this section is held, notice of the results of the election, approving the inclusion of the political subdivision or unincorporated area within the district shall be published as provided in G.S. 153-297.

Any action or proceeding in any court to set aside a resolution of the Board of Water and Air Resources or an election approving the inclusion of a political subdivision or unincorporated area within a district or to obtain any other relief upon the ground that such resolution or election or any proceeding or action taken with respect to the inclusion of the political subdivision or unincorporated area within the district is invalid, must be commenced within 30 days after the first publication of the notice. After the expiration of such period of limitation, no right of action or defense founded upon the invalidity of the resolution or the

election or the inclusion of the political subdivision or unincorporated area in the district shall be asserted, nor shall the validity of the resolution or the election or the inclusion of the political subdivision or unincorporated area be open to question in any court upon any ground whatever, except in an action or proceeding commenced within such period.

Any political subdivision or unincorporated area included within an existing district by resolution of the Board of Water and Air Resources or by such resolution and election shall be subject to all debts of the district.

The annexation by a city or town within a metropolitan sewerage district of an area lying outside such district shall not be construed as the inclusion within the district of an additional political subdivision or unincorporated area within the meaning of the provisions of this section; but any such areas so annexed shall become a part of the district and shall be subject to all debts thereof.

Immediately following the inclusion of any additional political subdivision or unincorporated area within an existing district, members representing such additional political subdivision or unincorporated area shall be appointed to the district board in the manner provided in G.S. 153-298. The terms of office of the members first appointed to represent such additional subdivision or area may be varied for a period not to exceed six months from the terms provided for in G.S. 153-298, so that the appointment of successors to such members may more nearly coincide with the appointment of successors to members of the existing board; and all successor members shall be appointed for the terms provided for in G.S. 153-298."

Sec. 4. G.S. 153-309 is hereby amended to read as follows:

"§ 153-309. *Determination of tax rate by district board; levy and collection of tax; remittance and deposit of funds.*—After each assessment for taxes following the creation of the district, the board or boards of commissioners shall file with the district board the valuation of assessable property within the district. The district board shall then determine the amount of funds to be raised by taxation for the ensuing year in excess of available funds to provide for the payment of interest on and the principal of all outstanding general obligation bonds as the same shall become due and payable, to pay the cost of maintaining, repairing and operating any sewerage system or systems, and to pay all obligations incurred by the district in the performance of its lawful undertakings and functions.

The district board shall determine the number of cents per one hundred dollars (\$100.00) necessary to raise said amount and certify such rate to the board or boards of commissioners. The board or boards of commissioners shall include the number of cents per one hundred dollars (\$100.00) certified by the district board in its next annual levy against all taxable property within the district, which tax shall be collected as other county taxes are collected, and every month the amount of tax so collected shall be remitted to the district board and deposited by the district board in a separate account in a bank in the State of North Carolina. Such levy may include an amount for reimbursing the county for the additional cost to the county of levying and collecting such taxes, pursuant to such formula as may be agreed upon by the district board and the board or boards of commissioners, to be deducted from the collections and stated with each remittance to the district board. The officer or officers having charge or custody of the funds of the district shall require said bank to furnish security

for protection of such deposits as provided in G.S. 159-28 and, after June 30, 1973, G.S. 159-31."

Sec. 5. G.S. 153-321 is hereby amended by striking the reference to "G.S. 153-306", appearing in lines 5 and 6 thereof, and by substituting therefor the language "The Local Government Finance Act"; and by striking the reference to "said G.S. 153-306", appearing in line 8, and by substituting therefor the language "The Local Government Finance Act".

Sec. 6. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 7. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 16th day of May, 1973.

H. B. 700

CHAPTER 513

AN ACT TO INCORPORATE THE TOWN OF INDIAN BEACH IN CARTERET COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The following provisions of law shall constitute the Charter of the Town of Indian Beach in Carteret County.

"THE CHARTER OF THE TOWN OF INDIAN BEACH.

"ARTICLE I. INCORPORATION AND CORPORATE POWERS.

"Section 1.1. Incorporation and General Powers. The inhabitants of the area described in Section 2.1 of this Charter shall be and constitute a body politic and corporate under the name of the 'Town of Indian Beach', and shall be vested with all property which may be acquired by the Town, and all rights herein delegated to it; shall have perpetual succession; may have a common seal and alter and renew the same at pleasure; may sue and be sued; may contract; may acquire and hold all such property, real and personal, as may be devised, bequeathed, sold or in any manner conveyed or dedicated to it, or otherwise acquired by it, and may from time to time hold or invest, sell, or dispose of the same; and shall have and may exercise in conformity with this Charter all municipal powers, functions, rights, privileges, and immunities of every name and nature.

"Section 1.2. Exercise of Powers. All powers, functions, rights, privileges, and immunities of the Town, its officers, agencies, or employees, shall be carried into execution as provided by this Charter, or, if this Charter makes no provision, as provided by ordinance or resolution of the Town Board and as provided by the general laws of North Carolina pertaining to cities and towns.

"Sec. 1.3. Enumerated Powers not Exclusive. The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive but, in addition to the powers enumerated herein or implied hereby, or those appropriate to the exercise of such powers, the Town of Indian Beach shall have and may exercise all powers which are granted to cities and towns by the general laws of North Carolina and all powers which, under the Constitution of North Carolina, it would be competent for this Charter specifically to enumerate.

"ARTICLE II. CORPORATE BOUNDARIES.

"Sec. 2.1. Corporate Boundaries. The corporate boundaries of the Town of Indian Beach, until changed in accordance with law are as follows:

BEGINNING at the southeastern-most boundary line point of the corporate limits of the Town of Emerald Isle as amended by Chapter 220 of the Session Laws of the 1967 General Assembly; the southwestern-most boundary line point of Indian Beach being the same as the southeastern-most boundary line point of Emerald Isle; thence in a northerly direction along the eastern boundary line of Emerald Isle to the high water mark of Bogue Sound; thence due north to a point 2,640 feet in Bogue Sound; thence in an easterly direction parallel to and 2,640 feet from the high water mark of Bogue Sound to a point in Bogue Sound 2,640 feet due north of the northwestern-most boundary line of Salter Path; thence due south to the northwestern-most boundary line point of Salter Path; thence in a southerly direction along the western boundary line of Salter Path to the high water mark of the Atlantic Ocean; thence due south to a point 2,640 feet in the Atlantic Ocean; thence in a westerly direction parallel to and 2,640 feet from the high water mark of the Atlantic Ocean to a point in the Atlantic Ocean 2,640 feet due south of the high water mark of the Atlantic Ocean which is the southeastern-most boundary line point of Emerald Isle; the point of beginning.

"ARTICLE III. MAYOR AND BOARD OF COMMISSIONERS.

"Sec. 3.1. Temporary Officers. Until the initial election provided for by Section 4.1 of this Charter, Wayne E. Thompson is hereby appointed Mayor, and David M. Lindsay, W.L. Fugate, Edward Willis, and Walter C. Latham are hereby appointed Commissioners of the Town of Indian Beach, and they shall possess and may exercise the powers granted to the Mayor and Board of Commissioners until their successors are elected and qualified pursuant to this Charter.

"Sec. 3.2. Mayor and Mayor Pro Tempore. The Mayor shall be elected by the Board of Commissioners from its own members, and he shall hold office for two (2) years. In the case of a vacancy in the office of Mayor, the remaining members of the Board of Commissioners shall choose from their own number his successor for the unexpired term. The Mayor shall be the official head of the Town government and shall preside at all meetings of the Town Board. When there is an equal division upon any question, or in the appointment of officers, by the Board, the Mayor shall determine the matter by his vote, and shall vote in no other case. The Mayor shall exercise such powers and perform such duties as are or may be conferred upon him by the general laws of North Carolina, by this Charter, and by the ordinances of the Town. The Town Board shall choose one of its members to act as Mayor Pro Tempore, and he shall perform the duties of the Mayor in the Mayor's absence or disability. The Mayor Pro Tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the Board.

"Sec. 3.3. Composition of Town Board. The Town Board shall consist of five (5) members to be elected by and from the qualified voters of the Town voting at large in the manner provided by Article IV.

"Sec. 3.4. Terms; Qualifications; Vacancies.

(a) Except for the terms of office as specified in Section 3.1 and Section 4.1 herein, the members of the Town Board shall serve for terms of four (4) years, beginning the day and hour of the organizational meeting following their

election, as established by ordinance in accordance with this Charter; provided, they shall serve until their successors are elected and qualified.

(b) No person shall be eligible to be a candidate or be elected as a member of the Town Board, or to serve in such capacity, unless he is a resident and a qualified voter of the Town.

(c) If any elected Commissioner shall refuse to qualify, or if there shall be any vacancy in the office of Commissioner after election and qualification, the remaining members of the Board shall by majority vote appoint some qualified person to serve for the unexpired term. Any Commissioner so appointed shall have the same authority and powers as if regularly elected.

"Sec. 3.5. Compensation of Mayor and Commissioners. The Town Board may fix its own compensation and allowances in accordance with G.S. 160A-64. Any action taken under this section shall be published at least once in some newspaper having general circulation in Indian Beach, as provided by North Carolina General Statute 1-597.

"Sec. 3.6. Organization of Board; Oaths of Office. Following each biennial election, the Town Board shall meet, elect the Mayor and organize for the transaction of business as provided in G.S. 160A-68. Before entering upon their offices, the Mayor and each Commissioner shall take, subscribe, and have entered upon the minutes of the Board the following oath of office:

'I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution and laws of North Carolina not inconsistent therewith and that I will faithfully perform the duties of the office of _____, on which I am about to enter, according to my best skill and ability; so help me, God.'

"Sec. 3.7. Meetings of Board.

(a) The Town Board shall fix by ordinance suitable times for its regular meetings, which shall be as often as once monthly. Special meetings may be held as provided in G.S. 160A-71.

"Sec. 3.8. Quorum; Votes. Voting procedures and quorum shall be as provided in G.S. 160A-72, 160A-73, 160A-75 and 160A-76.

"Sec. 3.9. Ordinances and Resolutions. The adoption, amendment, repeal, pleading, or proving of ordinances shall be in accordance with the applicable provisions of the general laws of North Carolina not inconsistent with this Charter. The enacting clause of all ordinances shall be: 'Be it ordained by the Town Board of the Town of Indian Beach'. All ordinances and resolutions shall take effect upon adoption unless otherwise provided therein, or unless some provision of the General Statutes provides otherwise.

"ARTICLE IV. ELECTION PROCEDURE.

"Sec. 4.1. Regular Municipal Elections. Regular municipal elections shall be held on the date and in the manner provided in Chapter 163, Subchapter IX of the General Statutes. In the regular election in 1973, there shall be elected five (5) Commissioners. The three (3) candidates receiving the highest numbers of votes shall be elected for terms of four (4) years and the other two (2) candidates shall be elected for terms of two (2) years. Beginning in the regular election in 1975, and in subsequent elections, all terms shall be for four (4) years.

"Sec. 4.2. Regulation of Elections. All municipal elections shall be conducted by the Carteret County Board of Elections in accordance with the general laws of North Carolina relating to municipal elections, except as otherwise herein

provided. The elections shall be non-partisan and decided by simple plurality. No primary election shall be held.

“ARTICLE V. TOWN ATTORNEY.

“Sec. 5.1. Appointment; Qualifications; Terms; Compensation. The Town Board shall appoint a Town Attorney who shall be an attorney at law licensed to engage in the practice of law in North Carolina and who need not be a resident of the Town during his tenure. The Town Attorney shall serve at the pleasure of the Town Board and shall receive such compensation as the Board shall determine.

“Sec. 5.2. Duties of Town Attorney. It shall be the duty of the Town Attorney to prosecute and defend suits for and against the Town; to advise the Mayor, Town Board, and other Town officials with respect to the affairs of the Town; to draw all legal documents relating to the affairs of the Town; to draw proposed ordinances when requested to do so; to inspect and pass upon all agreements, contracts, franchises and other instruments with which the Town may be concerned; to attend meetings of the Town Board upon request; and to perform such other duties as may be required of him by virtue of his position as Town Attorney.

“ARTICLE VI. ADMINISTRATIVE OFFICERS AND EMPLOYEES.

“Sec. 6.1. Town Clerk. The Town Board shall appoint a Town Clerk to keep a journal of the proceedings of the Board and to maintain in a safe place all records and documents pertaining to the affairs of the Town, and to perform such other duties as may be required by law or as the Board may direct.

“Sec. 6.2. Town Tax Collector. The Town Board may appoint a Tax Collector to collect all taxes, licenses, fees and other monies belonging to the Town subject to the provisions of this Charter and the ordinances of the Town, and he shall diligently comply with and enforce all the general laws of North Carolina relating to the collection, sale, and foreclosure of taxes by municipalities.

“Sec. 6.3. Town Accountant. The Town Board shall appoint a Town Accountant to perform the duties of the finance officer as required by the Local Government Budget and Fiscal Control Act.

“Sec. 6.4. Consolidation of Functions. The Town Board may, in its discretion, consolidate the functions of any two or more of the positions of Town Clerk, Town Tax Collector, and Town Accountant, or may assign the functions of any one or more of these positions to the holder or holders of any other of these positions. The Board may also, in its discretion, designate a single employee to perform all or any part of the functions of any of the named positions, in lieu of appointing several persons to perform the same.

“Sec. 6.5. Other Employees. The Town Board may create and fill by appointment such other positions as it deems advisable to insure the efficient administration of the Town's affairs, and may, in its discretion, appoint a person to supervise all Town departments and may delegate to such person the power of appointment and removal of department heads and employees, other than the Town Attorney.

“ARTICLE VII. FINANCE.

“Sec. 7.1. In general. The fiscal affairs of the Town shall be governed by Chapter 159 of the General Statutes and other pertinent provisions of the general laws of the State.

“Sec. 7.2. Taxation. The Territory within the corporate limits, and its citizens and property, shall be subject to municipal taxes levied by the Town for

the fiscal year 1973-74 and subsequent years. The Town may obtain from Carteret County, and the Carteret County Tax Supervisor shall provide upon request a record of property within the corporate limits which was listed for taxation as of January 1, 1973.

"ARTICLE VIII. CLAIMS AGAINST THE TOWN.

"Sec. 8.1. Tort Claims. All claims or demands against the Town arising in tort shall be presented to the Town Board in writing, signed by the claimant or his attorney or agent, within ninety (90) days after such claim or demand is due or the cause of action accrues. No suit or action shall be brought on such a claim or demand before the expiration of thirty (30) days after the claim or demand is presented or after the expiration of twelve (12) months from the time such claim or demand is presented. Unless the said claim or demand is so presented within ninety (90) days, and unless suit is brought within twelve (12) months thereafter, any action thereon shall be barred."

Sec. 2. If any provision of this act or the application thereof to any person or circumstances is held invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions or application of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 3. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed, to the extent of such conflict.

Sec. 4. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 16th day of May, 1973.

H. B. 795

CHAPTER 514

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF MEBANE, AND TO REPEAL PRIOR CHARTER ACTS.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Mebane is hereby revised and consolidated to read as follows:

"THE CHARTER OF THE TOWN OF MEBANE

"ARTICLE I. INCORPORATION AND GENERAL POWERS

"Section 1.1. *Incorporation and general powers.* The Town of Mebane shall continue to be a body politic and corporate under the name and style of the 'Town of Mebane', and shall continue to be vested with all property and rights which now belong to the Town; shall have perpetual succession; may have a common seal and alter and renew the same at pleasure; may sue and be sued; may contract, may acquire and hold all such property, real and personal, as may be devised, bequeathed, sold, or in any manner conveyed or dedicated to it, or otherwise acquired by it, and may from time to time hold or invest, sell, or dispose of the same; and shall have and may exercise in conformity with this Charter all municipal powers, functions, rights, privileges and immunities of every name and nature.

"Sec. 1.2. *Enumerated powers not exclusive.* The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive but, in addition to the powers enumerated herein or implied hereby, or those appropriate to the exercise of such powers, the Town of Mebane shall have and

may exercise all powers which are granted to cities and towns by the general laws of North Carolina and all powers which, under the Constitution of North Carolina, it would be competent for this Charter specifically to enumerate.

"Sec. 1.3. *Exercise of powers.* All powers, functions, rights, privileges and immunities of the Town, its officers, agencies or employees, shall be carried into execution as provided by this Charter, or, if this Charter makes no provision, as provided by ordinance or resolution of the Town Council and as provided by the general laws of North Carolina pertaining to cities and towns.

"Sec. 1.4. *Form of government.* The Town of Mebane shall operate under the Council-Manager form of government as provided in Part 2, Article 7, Chapter 160A of the General Statutes of North Carolina, subject to the modifications of this Charter. Nothing contained in this Charter shall be construed to prevent the form of government of the Town of Mebane from being changed as by law provided.

"ARTICLE II. CORPORATE BOUNDARIES

"Sec. 2.1. *Existing corporate boundaries.* (a) The corporate limits of the Town shall be those existing at the time of the ratification of this Charter and as the same may be altered from time to time in accordance with law. The Town Engineer is responsible for preparing a map and description of the corporate limits in accordance with G.S. 160A-22, and the Town Clerk is responsible for maintaining this map and description.

"Sec. 2.2. *Extension of corporate boundaries.* All extensions of the corporate boundaries shall be governed by the General Statutes of North Carolina.

"ARTICLE III. MAYOR AND TOWN COUNCIL

"Sec. 3.1. *Number and election of members of Town Council.* The Town Council shall consist of five members elected at large by and from the qualified voters of the Town for staggered terms of four years and until their successors are elected and qualified. The members of the present Board of Commissioners of the Town shall form the Town Council until such times as their regular terms shall expire and until their successors are elected and qualified.

"Sec. 3.2. *Mayor.* The Mayor of the Town shall be elected at large by and from the qualified electorate for a term of four years or until his successor is elected and qualified. The Mayor currently in office shall hold said office until his normal term shall expire. He shall be the official head of the town government and shall preside at all meetings of the Board of the Town Council. When there is an equal division upon any question or in the appointment of officers, by the council, the Mayor shall determine the matter by his vote and he shall vote in no other case. The Mayor shall exercise such powers and perform such duties as are or may be conferred upon him by the general laws of North Carolina, by this Charter and by the ordinances of the Town. The Town Council shall choose one of its members to act as Mayor Pro Tempore, and he shall perform the duties of the Mayor in the Mayor's absence or disability. The Mayor Pro Tempore as such shall have no fixed term of office but shall serve in such capacity at the pleasure of the Town Council.

"Sec. 3.3. *Power and organization of Town Council.* All legislative powers of the Town shall be vested in the Town Council. The Town Council elected as hereinafter provided shall meet at 10:00 o'clock in the forenoon on the first Monday following its election for the purpose of executing the oath of office, and electing a Mayor Pro Tempore. The meeting shall be presided over by the Town Clerk who shall certify to the incumbent Mayor the results of the election and

cause the same to be entered in the minutes of the Council. After receiving the oath of office, the newly elected Mayor shall preside over the organizational meeting. The organization of the Council shall take place notwithstanding the absence, death, refusal to serve, failure to qualify, or nonelection of one or more members, but at least a quorum of the members must be present. Any member entitled to make the aforesaid oath who is not present at the time fixed therefor, may make oath at any time thereafter.

"Sec. 3.4. *Meetings.* The Town Council shall fix suitable times for its regular meetings. Special meetings shall be called and held in accordance with G.S. 160A-71. Meetings of the Town Council may also be called by the Mayor or Mayor Pro Tempore to consider emergency matters without six-hour notice when the nature of the emergency is such that it would be impractical or impossible to give such notice. Notice of emergency meetings may be given by any reasonable method, including telephone.

"Sec. 3.5. *General procedure.* A majority of the members of the Town Council shall constitute a quorum. Its meetings shall be public, and the Mayor, who shall be the official head of the Town, shall, if present, preside. In the absence of the Mayor, the Mayor Pro Tempore of the Council shall preside, and in the absence of both, a Chairman Pro Tempore shall be chosen. The Town Clerk shall be ex officio clerk of the Town Council, and shall keep records of its proceedings; but in case of his temporary absence, or in case of a vacancy in the office, the Town Council may elect by ballot, a temporary clerk, who shall be sworn to the faithful discharge of his duties and may act as Clerk of the Town Council until a Town Clerk is chosen and qualified. On request of one member, the vote shall be by yeas and nays and shall be entered upon the records. Three affirmative votes at least shall be necessary for the passage of any order, ordinance, resolution or vote. Notwithstanding G.S. 160A-75, ordinances may be finally passed on first reading with the assent of a majority of the Town Council.

"Sec. 3.6. *Vacancies.* Vacancies in the Town Council shall be filled by the Council for the remainder of the unexpired terms. In case of a vacancy in the office of Mayor, the remaining members of the Council shall choose his successor for the unexpired term. A member of the Council may be selected as Mayor but may not also serve as a councilman.

"Sec. 3.7. *Compensation.* (a) The Town Council shall fix or approve the salaries and allowances of all Town officers and employees.

(b) The Council may fix its own compensation and the compensation of the Mayor and any other elected officers of the Town in accordance with G.S. 160A-64.

"Sec. 3.8. *Administrative Officers.* There shall be a Town Attorney, a Town Clerk, a Town Finance Officer, and a Town Engineer who shall be appointed by the Town Council and who shall perform those duties prescribed by law or by the Council pursuant to law.

"Sec. 3.9. *Combination of offices.* The Town Council may combine the office of Town Finance Officer with the office of Town Clerk, in its sole discretion.

"ARTICLE IV. ELECTION PROCEDURE

"Sec. 4.1. *Municipal elections.* Elections for Mayor and Town Council shall be nonpartisan and decided by plurality in accordance with G.S. 163-292.

"Sec. 4.2. *Election procedure.* All elections and referendums of the Town of Mebane shall be held and conducted as provided by the applicable General Statutes of North Carolina.

"Sec. 4.3. *Absentee voting.* Absentee voting will not be permitted in any Town of Mebane municipal election.

"ARTICLE V. STREET AND SIDEWALK IMPROVEMENTS

"Sec. 5.1. *Street improvements; assessment of cost.* In addition to any authority which is now or may hereafter be granted by general law to the Town for making street improvements, the Town Council is hereby authorized to make street improvements and to assess the cost thereof against abutting property owners in accordance with the provisions of this Article.

"Sec. 5.2. *When petition unnecessary.* The Town Council may order street improvements and assess the cost thereof exclusive of the cost incurred at street intersections, against the abutting property owners at an equal rate per front foot, without the necessity of a petition, upon the finding by the Council as a fact:

(a) That such street or part thereof is unsafe for vehicular traffic and it is in the public interest to make such improvement, or

(b) That it is in the public interest to connect two streets, or portions of a street already improved, or

(c) That it is in the public interest to widen a street, or part thereof, which is already improved; provided, that assessments for widening any street or portions of a street without petition shall be limited to the cost of widening and otherwise improving such street in accordance with the street classification and improvement standards established by the Town's thoroughfare or major street plan for the particular street or part thereof to be widened and improved under the authority granted by this Article.

"Sec. 5.3. *Street improvement defined.* For the purpose of this Article the term 'street improvement' shall include grading, regrading, surfacing, resurfacing, widening, paving, repaving, the acquisition of right-of-way, and the construction or reconstruction of curb, gutters and street drainage facilities.

"Sec. 5.4. *Sidewalks; assessment of cost.* In addition to any authority which is now or may hereafter be granted by the General Statutes to the Town for making sidewalk improvements, the Town Council is hereby authorized to order to be made or to make sidewalk improvements or repairs without petition according to standards and specifications of the Town, and to assess the total cost thereof against abutting property owners.

If a sidewalk is constructed on only one side of a street in a residential zone, the cost thereof may be assessed against property abutting on both sides of the street, unless there already exists a sidewalk, on the other side of the street, the total cost of which, has been assessed against the abutting property.

"Sec. 5.5. *Assessment procedure.* In ordering street and sidewalk improvements without a petition and assessing the cost thereof under authority of this Article, the Town Council shall comply with the procedure provided in the General Statutes, except those provisions relating to the petition of property owners and the sufficiency thereof.

"Sec. 5.6. *Effect of assessment.* The effect of the act of levying assessments under the authority of this Article shall for all purposes be the same as if assessed where levied under authority of the General Statutes of North Carolina.

"ARTICLE VI. FINANCE AND TAXATION

"Sec. 6.1. *In general.* The fiscal affairs of the Town shall be governed by Chapter 159 of the General Statutes.

“ARTICLE VII. WATER AND SEWER IMPROVEMENTS

“Sec. 7.1. *Laterals included in cost.* In ordering water or sewer line extensions, or both, the assessment of the cost thereof under the authority given by the General Statutes, the Town Council is hereby authorized to include in such extensions water and sewer line laterals, and to include the cost of such laterals in the total cost to be assessed upon abutting properties.

“Sec. 7.2. *Classification and exemption.* Where water or sewer lines are constructed across or through lots or tracts of land or when water or sewer lines, or both, are installed along both sides of corner lots and are financed in whole or in part by assessment, the Council may by uniform rule classify such lines for assessment as in its judgment will represent the benefits derived. The Schedules of exemptions may be classified as to land uses (residential, business, commercial, industrial, office and institutional, agricultural, or other classifications) and shall be uniform for each such classification used; provided, however, that no schedule of exemptions may provide for exemption of more than seventy-five percent (75%) of the frontage of any side of a corner lot, or 150 feet, whichever is greater.

“Sec. 7.3. *Alternative method of assessing.* In addition to, and as alternatives, to the method provided in the General Statutes for assessing the cost of water and sewer lines and laterals, the Town Council, if in its opinion it would be more equitable to do so, is hereby authorized in its discretion to levy any such assessments according to either of the following methods: (1) equally against each of the lots capable of being served by such line or lines, or (2) on the basis of the footage of land upon a public street by an equal rate per foot of such frontage; or (3) on an acreage basis according to the acreage served by said line; or (4) any combination of the above.

In lieu of assessing the total cost of a particular project as herein provided, the Town Council may annually, between the first days of January and July of each year, determine the average cost of installing water and sewer mains or lines, and on the basis of such determination may make assessments on such average cost during the following fiscal year beginning July 1. The average cost of such installation shall include the cost of the particular size and material of lines completed during the preceding calendar year. It may also include the anticipated increase in labor and materials cost based upon the average of such increases during the preceding five calendar years. The assessment of the average cost of such lines shall not be made until after the particular assessment project has been completed. The Council may also by ordinances, establish a fixed rate per front foot for water and sewer installation and cause that rate to be assessed. Provided, however, said fixed rate may not exceed the actual cost of such service. A fixed rate so established may be revised, modified or repealed by ordinance of the Council. The purpose of this section is to distribute more equitably the cost of the installation of water and sewer lines throughout the Town; to permit a property owner to know in advance what the cost of installation of water and sewer lines benefiting his property will be; and to permit the most expeditious assessment cost against the property after completion of installation of such lines. The actual cost of acquisition of rights-of-way may also be assessed as a part of the cost of an individual project. If the right-of-way costs have not been determined and assessed with the assessment of the average installation cost at the time of the completion of the project, such costs may be assessed separately when they are determined.

"Sec. 7.4. *Payment of assessments.* Any special assessment of the Town for any purpose amounting to less than one hundred dollars (\$100.00) shall be paid in cash not later than the next due date of Town taxes rather than in annual installments and shall bear interest as taxes. Installment payments on special assessments shall uniformly fall due on the date that taxes are due and payable.

"Sec. 7.5. *Acreage charges.* In addition to water and sewer service charges and connection charges, the Town Council may establish and collect acreage charges for the privilege of connecting to the Town water and sewerage systems, both within and outside the corporate limits, to aid in the financing of new water and sewer mains and laterals and sewer outfalls and the replacement or enlargement of existing mains, laterals and outfalls. Such charges shall apply uniformly to all properties to which water or sewer service is extended subsequent to the establishment of such charges; provided, however, that the Council may establish higher acreage charges for property developed or to be developed for business, commercial, industrial, or office and institutional uses than those established for residential and other uses, and may base acreage charges for residential property upon the number of dwelling units per acre of land.

"ARTICLE VIII. REGULATORY POWERS

"Sec. 8.1. *Land use regulation.* The Town of Mebane possesses all of the land use regulation powers conferred on cities and towns generally by the General Statutes of North Carolina.

"Sec. 8.2. *Underground utilities.* In addition to the powers now or hereafter granted to municipalities by law, the Town subdivision ordinance may require that all utility or other pipes, wiring conduits, cables, and fixtures within subdivisions be installed underground, whether or not the same are installed in public rights-of-way pursuant to plans or regulations approved by the North Carolina Utilities Commission.

"ARTICLE IX. CLAIMS AGAINST THE TOWN

"Sec. 9.1. *Presentation of claims; suit upon claims.* (a) All claims or demands against the Town of Mebane arising in tort or in contract shall be presented to the Town Council in writing, signed by the claimant, his attorney or agent, within 90 days after the claim or demand is due or the cause of action accrues, and no suit or action shall be brought thereon within 30 days or after the expiration of 12 months from the time said claim or demand is so presented. Unless the claim or demand is so presented within 90 days after the cause of action accrues, and unless suit is brought within 12 months thereafter, any action thereon is barred.

(b) No action shall be instituted against the Town on account of damages to or compensation for real property taken or used by the Town for any public purpose, or for the ejectment of the Town therefrom, or to remove a cloud upon the title thereof, unless, within two years after such alleged use, the owner, his executor, administrator, guardian, or next friend, shall have given notice in writing to the Town Council of the claim, stating in the notice the date that the alleged use commenced, a description of property alleged to have been used, and the amount of damage or compensation claimed.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, if a complainant suffers from physical or mental incapacity that renders it impossible for him to give notice, his action shall not be barred if notice of claim is given by him or on his behalf within six months after the termination of his incapacity; provided, that minority shall not of itself constitute physical or

mental incapacity. If the complainant is a minor, his action shall not be barred if notice of claim is given on his behalf within three years after the happening or the infliction of the injury complained of; or, if the minor suffers from physical or mental incapacity that renders it impossible for him to give notice, his action shall not be barred if notice of claim is given on his behalf within six months after termination of the incapacity, or within three years after the happening or the infliction of the injury complained of, whichever is the longer period. The Town may at any time request the appointment of a next friend to represent any person having a potential claim against the Town and known to be suffering from physical or mental incapacity.

“Sec. 9.2. Settlement of claims by Town Manager. The Town Manager may, with the approval of the Town Council, settle claims against the Town for (1) personal injuries or damages to property when the amount involved does not exceed the sum of one hundred dollars (\$100.00) and does not exceed the actual loss sustained, including loss of time, medical expenses, and any other expense actually incurred and (2) the taking of small portions of private property which are needed for the rounding of corners at intersections of streets, when the amount involved in any such settlement does not exceed five hundred dollars (\$500.00) and does not exceed the actual loss sustained. Settlement of a claim by the Town Manager pursuant to this section shall constitute a complete release of the Town from any and all damages sustained by the person involved in such settlement in any manner arising out of the accident, occasion, or taking complained of. All such settlements and all such releases, shall be approved in advance by the Town Attorney.”

Sec. 2. The purpose of this act is to revise the Charter of the Town of Mebane and to consolidate herein certain acts concerning the property, affairs and government of the Town. It is intended to continue without interruption to provide those provisions of prior acts which are consolidated in this act, so that all rights and liabilities which have accrued are preserved and may be enforced.

Sec. 3. This act shall not be deemed to repeal, modify, nor in any manner to affect any of the following acts, portions of acts, or amendments thereto, whether or not such acts, portions of acts, or amendments are expressly set forth herein:

(a) Any acts concerning the property, affairs, or government of the public schools in the Town of Mebane.

(b) Any acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind.

Sec. 4. (a) The following acts or portions of acts, having served the purposes for which enacted, or having been consolidated into this act, are hereby repealed:

<u>Chapter</u>	<u>Laws</u>
132	Private Laws 1883
211	Private Laws 1907
97	Private Laws 1921
218	Private Laws 1927
417	Session Laws 1953

Sec. 5. No provision of this act is intended, nor shall be construed, to affect in any way any rights of interests (whether public or private);

(a) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act;

(b) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken (including the adoption of ordinances or resolutions) pursuant to or within the scope of any provision or law repealed by this act.

Sec. 6. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(a) The repeal herein of any act repealing such law, or

(b) Any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

Sec. 7. (a) All existing ordinances and resolutions of the Town of Mebane, and all existing rules and regulations of departments or agencies of the Town of Mebane, not inconsistent with the provisions of this act, shall continue in full force and effect until repealed, modified or amended.

(b) No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act by or against the Town of Mebane or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

Sec. 8. Severability. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 9. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 10. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of May, 1973.

H. B. 819

CHAPTER 515

AN ACT TO AMEND THE WORKMEN'S COMPENSATION ACT REGARDING BENEFITS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 97-29 is hereby amended as follows:

(a) In lines five and six of said section the words and figures "fifty-six dollars (\$56.00)" are hereby stricken and there is substituted in lieu thereof the words and figures "eighty dollars (\$80.00)".

(b) In line twenty-six of said section the words and figures "fifty-six dollars (\$56.00)" are hereby stricken and there is substituted in lieu thereof "eighty dollars (\$80.00)".

(c) In line eight of said section the words and figures "twenty thousand dollars (\$20,000)" are hereby stricken and there is substituted in lieu thereof "thirty-two thousand five hundred dollars (\$32,500)".

(d) In lines sixteen and seventeen of said section the words and figures "twenty thousand dollars (\$20,000)" are hereby stricken and there is substituted in lieu thereof "thirty-two thousand five hundred dollars (\$32,500)".

(e) In lines nineteen and twenty of said section the words and figures "twenty thousand dollars (\$20,000)" are hereby stricken and there is substituted in lieu thereof "thirty-two thousand five hundred dollars (\$32,500)".

(f) In line twenty-one of said section the words and figures “twenty thousand dollars (\$20,000)” are hereby stricken and there is substituted in lieu thereof “thirty-two thousand five hundred dollars (\$32,500)”.

Sec. 2. G.S. 97-30 is hereby amended by striking the words and figures “fifty-six dollars (\$56.00)” as the same appear in line seven thereof and by substituting in lieu thereof the words and figures “eighty dollars (\$80.00)”.

Sec. 3. G.S. 97-31 is hereby amended as follows:

(a) Subsection (21) is hereby amended by striking the words and figures “five thousand dollars (\$5,000)” as the same appear in line three and by substituting in lieu thereof “seven thousand five hundred dollars (\$7,500)”.

(b) Subsection (22) is hereby amended by striking the words and figures “five thousand dollars (\$5,000)” as the same appear in lines six and seven and by substituting in lieu thereof “seven thousand five hundred dollars (\$7,500)”.

(c) Subsection (24) is hereby amended by striking the words and figures “five thousand dollars (\$5,000)” as the same appear in line five and by substituting in lieu thereof “seven thousand five hundred dollars (\$7,500)”.

Sec. 4. G.S. 97-38 is hereby amended as follows:

In lines six and seven of said section the words and figures “fifty-six dollars (\$56.00)” are hereby stricken and there is substituted in lieu thereof the words and figures “eighty dollars (\$80.00)”.

Sec. 5. G.S. 97-41 is hereby amended by striking the words and figures “twenty thousand dollars (\$20,000)” as the same appear in line eight and by substituting in lieu thereof “thirty-two thousand five hundred dollars (\$32,500)”.

Sec. 6. G.S. 97-61.5(b) is hereby amended by striking the words and figures “fifty-six dollars (\$56.00)” as the same appear in line fourteen of said subsection and by substituting in lieu thereof “eighty dollars (\$80.00)”.

Sec. 7. G.S. 97-61.6 is hereby amended as follows:

(a) In line eleven of said subsection the words and figures “fifty-six dollars (\$56.00)” are hereby stricken and there is substituted in lieu thereof “eighty dollars (\$80.00)”.

(b) In line fourteen of said subsection the words and figures “twenty thousand dollars (\$20,000)” are hereby stricken and there is substituted in lieu thereof “thirty-two thousand five hundred dollars (\$32,500)”.

(c) In line twenty of said subsection the words and figures “fifty-six dollars (\$56.00)” are hereby stricken and there is substituted in lieu thereof “eighty dollars (\$80.00)”.

(d) In lines 31 and 32 of said subsection the words and figures “twenty thousand dollars (\$20,000)” are hereby stricken and there is substituted in lieu thereof “thirty-two thousand five hundred dollars (\$32,500)”.

Sec. 8. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 9. This act shall be in full force from and after July 1, 1973, and shall apply only to cases originating on and after July 1, 1973.

In the General Assembly read three times and ratified, this the 16th day of May, 1973.

H. B. 821

CHAPTER 516

AN ACT TO EXTEND THE CORPORATE LIMITS OF THE TOWN OF CLAYTON.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 263 of the Private Laws of 1899 as amended by Chapter 428 of the Session Laws of 1955 is hereby rewritten to read as follows:

"Sec. 2. The corporate limits of the Town of Clayton shall be as follows until changed in accordance with law:

BEGINNING at a point in the centerline of the Southern Railway right-of-way, said point being located 4,500 feet Northwest of the point at which the centerline of the Southern Railway right-of-way and the centerline of Fayetteville Street intersect; thence North 49°-20' E. a distance of 2,800 feet to a point; thence South 40°-40' E. a distance of 12,000 feet to a point; thence South 49°-20' W. a distance of 9,250 feet; thence North 40°-40' W. a distance of 12,000 feet; thence North 49°-20' E. a distance of 6,450 feet to the point of BEGINNING."

Sec. 2. For the purpose of levying taxes for the fiscal year beginning July 1, 1973, the Town shall obtain from the Tax Supervisor of Johnston County, and the Tax Supervisor shall provide, a record of property in the area added to the corporate limits by this act.

Sec. 3. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 4. This act shall be effective upon its ratification.

In the General Assembly read three times and ratified, this the 16th day of May, 1973.

H. B. 1226

CHAPTER 517

AN ACT TO PROVIDE FOR THE APPOINTMENT OF TAX SUPERVISOR AND TAX COLLECTOR IN CASWELL COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 41 of the Session Laws of 1955 providing for the election of a tax supervisor and tax collector in Caswell County, is hereby repealed.

Beginning July, 1973, the Caswell County Tax Supervisor shall be appointed pursuant to G.S. 105-294 as the same appears in the 1972 Replacement Volume of the General Statutes.

Beginning in July, 1973, the Caswell County Tax Collector shall be appointed pursuant to G.S. 105-349 as the same appears in the 1972 Replacement Volume of the General Statutes. The present Tax Supervisor and Tax Collector shall serve until their successors are duly elected and qualified.

Sec. 2. That all laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 3. This act shall take effect upon ratification.

In the General Assembly read three times and ratified, this the 16th day of May, 1973.

H. B. 1272 CHAPTER 518

AN ACT TO AMEND THE CHARTER OF THE TOWN OF CONOVER
RELATING TO ELECTIONS.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of Chapter 101 of the Private Laws of 1883 is amended to read as follows:

"Sec. 3. The offices of the town shall consist of a mayor and five commissioners. The term of office of the mayor shall be two years. The terms of office of commissioners shall be four years. At the regular election in November, 1973, and quadrennially thereafter, two commissioners shall be elected. At the regular election in November, 1975, and quadrennially thereafter, three commissioners shall be elected."

Sec. 2. The terms of the mayor and the two commissioners of the town of Conover elected in May, 1971, are extended until their successors are elected in November, 1973, and qualify pursuant to general law. The terms of the three commissioners of the Town of Conover elected in May, 1972, are extended until their successors are elected in November, 1975, and qualify pursuant to general law.

Sec. 3. Chapter 181 of the Session Laws of 1949 is repealed. Chapter 671 of the Session Laws of 1957 is repealed.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of May, 1973.

S. B. 439 CHAPTER 519

AN ACT TO MAKE G.S. 47-108.11 VALIDATING INSTRUMENTS
WHERE SEALS HAVE BEEN OMITTED APPLICABLE TO
INSTRUMENTS REGISTERED BEFORE JANUARY 1, 1969.

The General Assembly of North Carolina enacts:

Section 1. G.S. 47-108.11 is hereby amended and rewritten to read as follows:

"§47-108.11. *Validation of recorded instruments where seals have been omitted.*—In all cases of any deed, deed of trust, mortgage, lien or other instrument authorized or required to be registered in the office of the register of deeds of any county in this State where it appears of record or it appears that from said instrument, as recorded in the office of the register of deeds of any county in the State, there has been omitted from said recorded or registered instrument the word 'seal', 'notarial seal' and that any of said recorded or registered instruments shows or recites that the grantor or grantors 'have hereunto fixed or set their hands and seals' and the signature of the grantor or grantors appears without a seal thereafter or on the recorded or registered instrument or in all cases where it appears there is an attesting clause which recites 'signed, sealed and delivered in the presence of', and the signature of the grantor or grantors appears on the recorded or registered instrument without any seal appearing thereafter or of record, then all such deeds, mortgages, deeds of trust, liens or other instruments, and the registration of same in the office of the register of deeds, are hereby declared to be in all respects valid and binding and are hereby made in all respects valid and binding to the same extent as if the

word 'seal' or 'notarial seal' had not been omitted, and the registration and recording of such instruments in the office of the register of deeds in any county in this State are hereby declared to be valid, proper, legal and binding registrations.

This section shall not apply in any respect to any instrument recorded or registered subsequent to January 1, 1969, or to pending litigation or to any such instruments now directly or indirectly involved in pending litigation."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of May, 1973.

S. B. 478

CHAPTER 520

AN ACT TO AMEND THE WORKMEN'S COMPENSATION ACT
REGARDING MEDICAL BENEFITS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 97-25 is hereby amended as follows:

(a) By inserting between the comma and the word "and" as the same appear in line two of said section, the words, "rehabilitation services,".

(b) By striking out the words " , for a period not exceeding ten weeks from the date of injury" as the same appear in lines three and four of said section.

(c) By inserting between the words "treatment" and "when" as the same appear in line 19 of said section, the words "or rehabilitative procedure".

Sec. 2. G.S. 97-27(a) is hereby amended as follows:

(a) By inserting between the words "surgeon" and "who" as the same appear in line nine of said subsection, the words "or hospital or hospital employee".

(b) By striking the words " , either in hearings provided for by this article or any action at law brought to recover damages against any employer who may have accepted the compensation provisions of this article" as the same appear in lines 10 through 13 of said subsection.

Sec. 3. G.S. 97-89 is hereby amended by striking the words " , not exceeding ten dollars (\$10.00) for each examination and report, but the Commission may allow additional reasonable amounts in extraordinary cases" as the same appear in lines six through eight of said section.

Sec. 4. G.S. 97-90(a) is hereby amended by inserting between the words "physician" and "shall" as the same appear in line four of said subsection, the words "or hospital or other medical facilities".

Sec. 5. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 6. This act shall be in full force from and after July 1, 1973.

In the General Assembly read three times and ratified, this the 16th day of May, 1973.

S. B. 480

CHAPTER 521**AN ACT TO AMEND THE WORKMEN'S COMPENSATION ACT
REGARDING AVERAGE WEEKLY WAGE.***The General Assembly of North Carolina enacts:*

Section 1. G.S. 97-2(5) is hereby amended by striking the words "such other method as may be used to compute the average weekly wage as will most nearly approximate the amount which the injured employee would be earning as an adult if it were not for the accident" as the same appear in lines 39 through 42 of said subsection and by substituting in lieu thereof the words "a wage sufficient to yield the maximum weekly compensation benefit".

Sec. 2. G.S. 97-2(5) is hereby amended by striking "G.S. 160-20.3" as the same appears in lines 49 and 50 of said subsection and by substituting in lieu thereof "G.S. 160A-282".

Sec. 3. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 4. This act shall be in full force and effect from and after July 1, 1973, and shall apply only to cases originating on and after July 1, 1973.

In the General Assembly read three times and ratified, this the 16th day of May, 1973.

H. B. 22

CHAPTER 522**AN ACT TO PROVIDE FOR THE APPOINTMENT OF RECEIVERS OF
THE ESTATES OF ARMED FORCES PERSONNEL LISTED AS
PRISONERS OF WAR OR AS MISSING IN ACTION.***The General Assembly of North Carolina enacts:*

Section 1. *Absentee in Military service; definition.*—Any person serving in or with the armed forces of the United States, in or with the Red Cross, in or with the merchant marines, during any time when a state of hostilities exists between the United States and any other power, who has been reported or listed by the appropriate federal agency as missing in action or as a prisoner of war for a period of one year, shall be an "absentee in military service" within the meaning of this act.

Sec. 2. *Action for receiver; jurisdiction; contents of complaint.*—(a) Whenever any absentee in military action as defined in this act has an interest in any form of property in this State and has not provided an adequate power of attorney authorizing another to act in his behalf in regard to such property or interest, any person who would have an interest in the property or estate of the absentee in military service were such absentee in military service deceased, or any person who is dependent on such absentee in military service for his maintenance or support, may commence an action for the appointment of a receiver to care for the estate of the absentee in military service by filing a verified complaint in the Superior Court in the county of domicile of the absentee in military service or in any county where his property is situated.

(b) The complaint shall show the following:

(1) The name, age, address, relationship of the person filing the complaint to the alleged absentee, and the interest of that person in the property of

the absentee in military service or his dependency upon the absentee in military service for his maintenance and support.

- (2) The name, age, and address of all persons who would have an interest in the estate of the absentee in military service were he deceased and the name, age, and address of all persons dependent upon him for their maintenance and support.
- (3) The name, age, and last known address of the absentee in military service.
- (4) The date on which the absentee in military service was first reported as missing or captured by the appropriate federal agency, and, as far as is known, the circumstances surrounding his absence.
- (5) The necessity for and the reasons why a receiver should be appointed.
- (6) Whether or not the person alleged to be an absentee in military service has a will and the whereabouts of said will;
- (7) So far as known, a schedule of all his property within this State, including property in which he is co-owner with or without the right of survivorship.

Sec. 3. Notice; hearing; guardian ad litem.—(a) Notice of the hearing on the complaint to appoint a receiver shall be given to all persons named in the petition by registered mail or certified mail with return receipt requested.

(b) The judge shall hear evidence on the questions of whether the person alleged to be missing or captured is an absentee in military service as defined by Section 1 of this act, on the question of the necessity for the appointment of a receiver, and on the question of who is entitled to appointment as the receiver.

(c) The court may in its discretion appoint a *guardian ad litem* to represent the alleged absentee in military service at the hearing.

Sec. 4. Order of appointment.—(a) If after the hearing, the court is satisfied that said person is, in fact, an absentee in military service as defined in Section 1 of this act and that it is necessary that a receiver be appointed, he shall appoint a receiver of the estate and property of said absentee in military service under the supervision, and subject to the further orders of the court.

(b) In the appointment of a receiver, the court shall give due consideration to the appointment of the spouse or one of the next of kin of the absentee in military service if such spouse or next of kin is a fit and proper person and is qualified to act.

Sec. 5. Bond; inventory; accounting.—(a) Before receiving any property the judge shall require the receiver to qualify by giving bond in an amount and with surety approved by him.

(b) Within thirty (30) days after the date of his appointment, the receiver shall file an inventory of all of the property of the absentee in military service taken in charge. Every year thereafter, within thirty (30) days of the anniversary date of his appointment the receiver shall file a full and complete inventory and accounting with the clerk of superior court under oath, of the amount of property received by him, or invested by him, and the manner and nature of such investment, and his receipts and disbursements for the past year in the form of debit and credit. The clerk shall inspect and audit the inventory and accounting and if he approves the same he shall endorse his approval thereon, which shall be deemed *prima facie* evidence of correctness. If the clerk finds evidence of misconduct or default on the part of the receiver he shall

report the same to the court. In such event, the procedures found in Section 7(b) of the act shall be followed.

Sec. 6. Powers and duties of receiver.—(a) Under the direction of a judge, the receiver shall administer the property of the absentee in military service as an equity receivership with the following powers:

- (1) To take custody and control of all property of the absentee in military service wherever situated,
- (2) To collect all debts due to the absentee in military service and pay all debts owed by him,
- (3) To bring and defend suits,
- (4) To pay insurance premiums,
- (5) With the approval of the judge in each instance, to continue to operate and manage any business enterprise, farm or farming operations, and to make necessary contracts with reference thereto,
- (6) With the approval of the judge in each instance, to renew notes and other obligations, obtain loans on life insurance policies, and pledge or mortgage property for loans necessary in carrying on or liquidating the affairs of such absentee in military service,
- (7) With the approval of the judge in each instance, to institute proceedings to partition property owned by the absentee and another as joint tenants or tenants in common, with or without the right of survivorship; provided, in the case of property owned by the absentee in military service and spouse as tenants by the entirety, such proceedings may be instituted only if the spouse of the absentee in military service consents in writing to the partitioning, and, in the event of partitioning, one half of the property or proceeds shall belong to the spouse and one half shall belong to the receiver as property of the absentee in military service.
- (8) With the approval of the judge in each instance, to sell, lease, invest, and reinvest any or all property, its income, or its proceeds,
- (9) To pay over or apply the proceeds of mortgage and sales of such portion, or all of the property or the income thereof, as may be necessary for the maintenance and support of the dependents of the absentee in military service. If the income from the property of the absentee in military service is not sufficient to pay all of his debts and to provide for the maintenance and support of his dependents, the receiver may apply to the judge for an order to sell or mortgage so much of the real or personal property as may be necessary therefor. Such sale or mortgage shall be reported to the judge, and if approved and confirmed by the judge, the receiver shall execute the required conveyances or mortgages of such property to the purchaser or lender upon his complying with the terms of sale or mortgage.

(b) The judge may, in his discretion, by written order, modify, add to, or subtract from the statutory powers granted in this section.

Sec. 7. Resignation and removal.—(a) A receiver appointed under authority of this act may resign and his successor be appointed by complying with the provisions set forth in G.S. 36-9 through 36-18.2.

(b) If, after a receiver has been appointed, it is made to appear to the court upon the filing of a complaint or upon information received that the person appointed as receiver of the estate and property of the absentee in military

service is legally incompetent, or that such person has been guilty of default or misconduct in due execution of his office, or that his appointment was obtained by false representation, or that such person has removed himself from this State, the court shall issue an order requiring such person to show cause why his appointment as a receiver should not be revoked. Upon the removal of a receiver of the estate or property of an absentee in military service, the court shall immediately appoint his successor. Pending any suit or proceeding between parties respecting such revocation, the clerk of superior court is authorized to make such interlocutory orders as may tend to better secure the estate and property of the absentee in military service.

Sec. 8. Termination of receivership.—(a) At any time upon petition signed by the absentee in military service, or on petition of an attorney in fact acting under an adequate power of attorney granted by the absentee in military service, the court shall direct the termination of the receivership and the transfer of all property held thereunder to the absentee in military service or to the designated attorney in fact.

(b) If at any time subsequent to the appointment of a receiver it shall appear that the absentee in military service has died and an executor or administrator has been appointed for his estate, the court shall terminate the receivership, certify all proceedings under the receivership to the clerk of superior court, and transfer all property of the deceased absentee in military service held thereunder to such executor or administrator.

(c) When the need for a receivership terminates, the receiver shall promptly file a final inventory and accounting and his application for discharge with the court. If it appears to the court that the inventory and accounting are correct and that the receiver has made full and complete transfer of the assets of the absentee in military service as directed, the court may approve the inventory and accounting and discharge the receiver. If objections to the final inventory and accounting are filed, the court shall conduct a hearing under the same conditions for a hearing on objections to the annual accounting and inventory.

(d) Such discharge shall operate as a release from the duties of the receivership and as a bar to any suit against said receiver or his surety, unless such suit is commenced within one year from the date of discharge.

Sec. 9. Summary procedure.—(a) If the spouse of any person defined as an absentee in military service by this act, or his next of kin, if said absentee in military service has no spouse, shall wish to sell or transfer any property of the absentee in military service which has a gross value of less than five thousand dollars (\$5,000), or shall require the consent of the absentee in military service in any matter regarding the children of the absentee in military service, or in any other matter in which the gross value of the subject matter is less than five thousand dollars (\$5,000), such spouse may apply to the superior court for an order authorizing said sale, transfer, or consent without opening a full receivership proceeding as provided by this act. Said application shall be made by petition on the following form, which form shall be made available to the applicant by the clerk of the superior court:

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF
JUSTICE

_____ COUNTY

SUPERIOR COURT DIVISION

In re: (absentee), PETITION FOR SUMMARY APPOINTMENT OF
RECEIVER

NOW COMES, (_____ name of petitioner), petitioner in this action, pursuant to G.S. _____, and requests the Court that he be appointed a receiver to sell/transfer (_____ describe property) of the value of (value) because (_____ give reasons). Petitioner is _____ years of age, resides at (address) in _____ County, North Carolina, and is the (_____ relation) of (_____ name of absentee) who has been (_____ pow or mia) since (_____ date of notification). The terms of the sale/transfer are (_____ terms). Petitioner requires the consent of the absentee for the purpose of (_____ give reasons).

_____(Signature)

The above named, _____, being by me duly sworn, says the foregoing petition is true and correct to the best of his knowledge.

Notary Public

My commission expires _____

(b) The court shall, without hearing or notice, enter an order on said petition if it deems the relief requested in said petition necessary to protect the best interest of the absentee in military service or his dependents.

(c) Such order shall be *prima facie* evidence of the validity of the proceedings and the authority of the petitioner to make a conveyance or transfer property or to give the consent of the absentee in military service in any matter prescribed by subsection (a).

Sec. 10. Specific property valued at more than five thousand dollars; summary procedure.—(a) If the spouse, or the next of kin if there is no spouse, of any person defined as an absentee in military service under this act shall wish to sell, lease, or mortgage specific property having a gross value of five thousand dollars (\$5,000) or more owned by the absentee in military service or in which the absentee has an interest, or take specific action with respect to any interest of the absentee in military service having a gross value of five thousand dollars (\$5,000) or more, such spouse may file a complaint with the superior court for an order authorizing the action with respect to such property or interest.

(b) The complaint shall contain all of the information called for by Section 2(b) of this act and, in addition, shall contain a description of the specific property or interest and the disposition to be made of it.

(c) The court shall hear evidence on the question of whether the person alleged to be missing or captured is an absentee in military service as defined by Section 1 of this act and on the question of whether the action in question should be authorized. Any person interested in such proceedings may intervene with leave of the court.

(d) The court may in its discretion appoint a guardian *ad litem* to represent the alleged absentee in military service at the hearing.

(e) If, after hearing, the court is satisfied that the person alleged to be an absentee in military service is, in fact, an absentee in military service as defined in Section 1 of this act, and that the action is in the best interest of the absentee in military service and his dependents, the court shall enter an order appointing the petitioner as receiver for the purposes of the specific action which is the subject of the complaint and authorizing the receiver to take the specific action requested in the complaint. The court shall require the receiver to account for the proceeds of the specific sale, the specific lease, or other specific action. The

court may retain jurisdiction of the proceeding to make such further orders as it deems proper.

(f) Such order shall be *prima facie* evidence of the validity of the proceedings and the authority of the petitioner to take the specific action requested.

(g) Other property of the absentee in military service not the specific subject of the complaint is not affected in any manner by the filing of such complaint as provided for in this section.

Sec. 11. G.S. 28A-2(a) as the same appears in the 1966 Replacement Volume 2A of the General Statutes is hereby amended to repeal the phrase, "or is a person in the military service of the United States who has been officially reported as missing in action."

Sec. 12. G.S. 28A-20 as the same now appears in the 1966 Replacement Volume 2A of the General Statutes is hereby amended to add the following sentence:

"This section shall not apply to personnel serving in or with the armed forces, the merchant marine, or the Red Cross during a period of hostilities between the United States and some other power who are listed by the appropriate federal agency as prisoners of war or as missing in action."

Sec. 13. This act shall become effective on ratification.

In the General Assembly read three times and ratified, this the 16th day of May, 1973.

H. B. 49

CHAPTER 523

AN ACT TO MAKE APPROPRIATIONS TO PROVIDE CAPITAL IMPROVEMENTS FOR STATE INSTITUTIONS, DEPARTMENTS, AND AGENCIES.

The General Assembly of North Carolina enacts:

Section 1. This act shall be known as "The Capital Improvement Appropriations Act of 1973".

Sec. 2. The appropriations made by this act are for the purpose of constructing buildings and utilities, the renovation of buildings and utilities, acquiring sites therefor where necessary, acquiring and installing equipment, and acquiring lands at the institutions, departments and agencies of the State hereinafter mentioned, as detailed in Volume III of the 1973-75 Budget.

Sec. 3. The direct appropriations made by this act to provide for Capital Improvements under Sections 4, 5, and 6 of this act shall be disbursed for the purposes provided by this act upon warrants drawn by the State Disbursing Officer, which warrants shall not be drawn for any State institution, department, or agency until a requisition has been approved by the Director of the Budget, and which requisition shall be approved only after full compliance with the Executive Budget Act, Article I, Chapter 143, of the General Statutes. Any officer of this State or executive head of any institution, or any director, trustee, or commissioner of any State institution, department, or agency to which a direct or self-liquidating appropriation is made under the provisions of this act who votes for or aids in spending more money for any improvement for any institution, department, or agency than is appropriated therefor except as hereinafter provided, may be removed from office by the Governor. Any additional monies which may be received by means of a grant or grants from the United States of America or any agency or department thereof, or from any

other source to aid in financing the cost of any of the improvements herein referred to may be placed by the State Treasurer in the same fund or in a separate fund and, to the extent permitted by terms of such grant or grants, with the approval of the Governor and the Advisory Budget Commission, shall be disbursed in the same manner and for the same purposes mentioned in this act, as detailed in Volume III of the 1973-75 Budget. Appropriations for purchases of land in Section 4 of this act are consolidated into one appropriation to the Department of Administration. Self-liquidating appropriations for student housing are on the basis of five thousand dollars (\$5,000) per student and shall not exceed this amount per student for the stated project including equipment and furnishings. Prior to the execution of design or construction contracts in respect to projects to be financed in whole or in part with self-liquidating appropriations the Advisory Budget Commission shall approve the method of financing such project. Where direct appropriations are provided in this act for the purpose of furnishing movable equipment for any project, such funds for equipment shall not be subject to transfer into construction accounts except as authorized by the Director of the Budget. However, fixed equipment funds so provided may be expended under construction accounts to the specific amount required for equipment attached to or connected to the building for which it is intended. It is the intent of this act that projects listed herein shall be completed, including fixed and movable equipment and furnishings, within the limits of the amounts of the direct or self-liquidating appropriations provided herein, except as hereinafter provided.

Sec. 4. There is hereby appropriated out of the General Fund the sum of one hundred sixty-six million four hundred four thousand two hundred fifty-nine dollars (\$166,404,259) for the use of the State institutions, departments and agencies to provide for CAPITAL IMPROVEMENT projects according to the following schedule:

II. GENERAL GOVERNMENT

Department of Administration		\$39,305,000
1. State Office Building		
Area Development	\$9,735,000	
Movable Equipment	<u>60,000</u>	\$9,795,000
2. Capitol Restoration		
Phase II Supplement		400,000
3. General Renovations &		
Repairs to State		
Buildings		350,000
4. Purchase of Land,		
Raleigh Area,		
Institutional & State Parks		17,500,000
5. Additional Stack Shelves,		
Archives-Library		
Building		150,000
6. Museum of Art		
Supplement		4,500,000
7. Cape Lookout National		
Seashore Land		
Acquisition		5,000,000

8. Renovate Basement Area Education Building		85,000	
9. Vehicular Parking Deck and Motor Pool Dispatching Center, Advance Planning		125,000	
10. New State Office Building Planning		300,000	
11. Air Condition Salisbury Street Annex, Department of Agriculture		275,000	
12. Emergency Repairs to State Owned Physical Facilities		250,000	
13. Renovate Governor's Mansion		<u>575,000</u>	
III. DEPARTMENT OF TRANSPORTATION AND HIGHWAY SAFETY			
North Carolina State Ports			
Authority			\$8,295,000
1. Open Dock Roll-on/ Roll-off Ramp, Morehead City Port		\$3,325,000	
2. Fill & Hardstand Area Wilmington Port		780,000	
3. Transit Shed on South Dock Extension, Wilmington Port		935,000	
4. Open Dock Roll-on/ Roll-off Ramp, Wilmington Port		2,995,000	
5. Shelter Modifications Wilmington Port		<u>260,000</u>	
IV. DEPARTMENT OF SOCIAL REHABILITATION AND CONTROL			
Office of Correction			
1. Inmate Education Facilities			
Multiple Locations	\$220,000		
Movable Equipment	<u>24,000</u>	\$244,000	
2. Vocational Training Facilities			
Multiple Locations		700,000	
3. Caledonia Prison Quartermen Facilities	1,405,000		
Fixed Equipment	375,000		
Movable Equipment	<u>80,000</u>	1,860,000	
4. Central Prison Renovations & Additions	1,630,000		
Fixed Equipment	665,000		
Movable Equipment	<u>100,000</u>	2,395,000	
5. Unallotted Reserve for Repairs & Alterations		<u>250,000</u>	
Stonewall Jackson School			1,601,000

1. Two Cottages for 50 Students Each	1,200,000		
Fixed Equipment	10,000		
Movable Equipment	<u>40,000</u>	1,250,000	
2. Physical Education Building Renovations		250,000	
3. Cafeteria Roof		6,000	
4. Roofs, Gutters & Downspouts		60,000	
5. Cottage 17 Renovations		<u>35,000</u>	
Samarkand Manor			20,000
1. Renovation of Four Cottages		<u>20,000</u>	
Cameron Morrison School			60,000
1. Well	40,000		
2. Fixed Equipment	<u>20,000</u>	<u>60,000</u>	
Dobbs School for Girls			50,000
1. New Roofs, Gutters & Downspouts		30,000	
2. Waterproofing Administra- tion Classroom Building		<u>20,000</u>	
Juvenile Evaluation Center			20,000
1. Demolition of Four Smoke Stacks		<u>20,000</u>	
C. A. Dillon School			5,000
1. Access Drive & Service Entrance		<u>5,000</u>	
Probation Commission			200,000
1. Headquarters Building - Wadesboro		<u>200,000</u>	
V. DEPARTMENT OF HUMAN RESOURCES			
Medical Care Commission			\$360,000
1. Developmental Disability Facilities - Cumberland County		<u>\$360,000</u>	
Office of Mental Health			2,500,000
1. Community Mental Health Facilities		<u>2,500,000</u>	
Alcoholic Rehabilitation Center - Black Mountain			630,000
1. Activities Building	\$600,000		
Fixed Equipment	10,000		
Movable Equipment	<u>20,000</u>	<u>630,000</u>	
Alcoholic Rehabilitation Center - Butner			228,000
1. Completion of Therapy Building	210,000		
Fixed Equipment	12,000		
Movable Equipment	<u>6,000</u>	<u>228,000</u>	

Walter B. Jones Alcoholic
Rehabilitation Center -
Greenville

512,000

1. Activities Building	477,000	
Fixed Equipment	20,000	
Movable Equipment	<u>15,000</u>	<u>512,000</u>

Dorothea Dix Hospital

3,785,000

1. Roof Repairs for Certain Buildings	290,000	
2. Roads, Walks, Parking Areas and Bridge	300,000	
3. Electrical Distribution System Improvements	430,000	
4. Water System Improvements	175,000	
5. McBride Building Renovation	1,600,000	
6. Taylor Hall Renovation	225,000	
7. Main Kitchen Renovation	210,000	
8. Communication System Improvements	20,000	
9. Power Plant Improvements - Phase II	225,000	
10. Emergency Generating Equipment	<u>310,000</u>	

Broughton Hospital

1,200,000

1. Renovations Wards R thru X	600,000	
2. Addition to Central Warehouse	300,000	
3. Re-roof Several Buildings	110,000	
4. Furniture Refinishing Facility	60,000	
5. Roads and Parking	<u>130,000</u>	

Western Carolina Center

960,000

1. Renovate Four (4) Cottages	780,000	
2. Roof Repairs, Seven (7) Buildings	<u>180,000</u>	

Cherry Hospital

3,708,400

1. Water Plant Improvements	192,000	
2. Addition to Sewage Treatment Plant	100,000	
3. Extend Water Distribution System	32,000	
4. Roads & Parking	85,000	
5. Central Laundry Equipment	2,273,000	
Vehicle	<u>1,000,000</u>	
	<u>26,400</u>	<u>3,299,400</u>

O'Berry Center		369,500
1. Renovation & Additions to		
Dormitories B-1 & B-2	415,000	
Fixed Equipment	25,000	
Movable Equipment	<u>50,000</u>	
	490,000	
Less 1971 Appropriation	<u>328,000</u>	162,000
2. Resurfacing Roads & Parking		37,500
3. Paging & Intercom System		50,000
4. Toilet & Shower Renovation, "A" & "B" Buildings		<u>120,000</u>
John Umstead Hospital		1,155,000
1. Ward Renovation for Adolescents & Classroom Addition	175,000	
Fixed Equipment	<u>10,000</u>	185,000
2. Renovate Main Dining Room	200,000	
Movable Equipment	<u>5,000</u>	205,000
3. Ward Renovation for Geriatric Patients		30,000
4. Magnetic Door Releases		75,000
5. Outdoor Lighting		75,000
6. Heating and Air Conditioning Controls		50,000
7. Laundry Equipment and Renovations		<u>535,000</u>
Murdoch Center		1,120,000
1. Utilities		17,500
2. High Temperature Hot Water Distribution System Renovation-Phase III		100,000
3. Cascade Heater		150,000
4. Emergency Power, Lightning & Smoke Detection Equipment		73,500
5. Air Conditioning Four (4) Buildings		700,000
6. Resurfacing & Paving Campus Drives		16,500
7. Record Vault		5,000
8. Ceiling in Blind Facility		33,000
9. Curb & Gutter for Streets & Drives		<u>24,500</u>

Caswell Center			1,350,000
1. Tapp Dormitory Renovation		325,000	
2. Johnson Dormitory Renovation		275,000	
3. Byrum Dormitory Renovation		275,000	
4. New Dining Area	345,000		
Fixed Equipment	75,000		
Movable Equipment	<u>25,000</u>	445,000	
5. Administration Building Renovation		<u>30,000</u>	
Wright School			50,000
1. Renovate Main Building		<u>50,000</u>	
Governor Morehead School			3,302,334
1. New Fire Main, Ashe Avenue Campus		35,000	
2. Vocational & Maintenance Building, Ashe Avenue Campus	790,000		
Movable Equipment	<u>60,000</u>	850,000	
3. Remove Railroad Siding Ashe Avenue Campus		20,000	
4. Lineberry Hall, Auditorium Renovation, Ashe Avenue Campus		210,000	
5. Roads & Parking, Ashe Avenue Campus		100,000	
6. Kitchen & Dining Facility Ashe Avenue Campus	650,000		
Fixed Equipment	75,000		
Movable Equipment	<u>15,000</u>	740,000	
7. Demolition of Johnson Cottage, Ashe Avenue Campus		8,000	
8. Renovate Five (5) Cottages, Ashe Avenue Campus		200,000	
9. Four Dormitories- Ashe Avenue Campus	1,106,000		
Movable Equipment	<u>33,334</u>	<u>1,139,334</u>	
North Carolina School for the Deaf			999,000
1. Renovate Rankin Hall		330,000	
2. Renovate Joiner Hall		200,000	
3. Renovate Goodwin Hall	170,000		
Fixed Equipment	<u>50,000</u>	220,000	
4. Renovate Rondthaler Hall	55,000		
Fixed Equipment	<u>1,000</u>	56,000	

5. Renovate Service Building		50,000	
6. Replace Sewer Lines		48,000	
7. Replace Steam Lines		70,000	
8. Renovate Infirmary Dining & Kitchen	20,000		
Fixed Equipment	<u>5,000</u>	<u>25,000</u>	
North Carolina Orthopedic Hospital			740,000
1. New Ward B	280,000		
Fixed Equipment	10,000		
Movable Equipment	<u>20,000</u>	<u>310,000</u>	
2. Renovation of Dietary Facilities	270,000		
Fixed Equipment	61,000		
Movable Equipment	<u>39,000</u>	<u>370,000</u>	
3. Fuel Storage Facilities		<u>60,000</u>	
North Carolina Cerebral Palsy Hospital			400,000
1. Main Building Renovation	350,000		
Movable Equipment	<u>50,000</u>	<u>400,000</u>	
Vocational Rehabilitation Aid to Local Government			709,200
1. Fayetteville Regional Rehabilitation Center	2,470,000		
Fixed Equipment	235,000		
Movable Equipment	<u>250,000</u>		
	2,955,000		
Less Federal & Local Funds	<u>2,245,800</u>	<u>709,200</u>	
Gravely Sanatorium		<u>25,200</u>	25,200
VI. DEPARTMENT OF NATURAL AND ECONOMIC RESOURCES			
Office of Commercial and Sports Fisheries			\$192,000
1. Patrol Boat		\$60,000	
2. Maintenance & Supply Building, Morehead City	\$120,000		
Fixed Equipment	8,000		
Movable Equipment	<u>4,000</u>	<u>132,000</u>	
Office of Forest Resources			750,000
1. Reserve for Capital Improvement Projects		<u>750,000</u>	
Office of Recreation Resources			2,500,000
Division of State Parks			
1. Reserve for Capital Improvement Projects		<u>2,500,000</u>	
North Carolina Board of Science & Technology			344,000

1. Addition to Science & Technology Building	305,000	
Fixed Equipment	17,000	
Movable Equipment	10,000	
Land	<u>12,000</u>	<u>344,000</u>
Kerr Reservoir Development Commission		83,000
1. Toilet Building		
Hibernia Point	21,000	
2. Six Storage Buildings	4,000	
3. Camping Area		
Hibernia Point	10,000	
4. Ranger Residence		
Satterwhite Point	23,000	
5. Refurbish Picnic Areas	<u>25,000</u>	
Office of Water & Air Resources		500,000
1. Maintenance of Beach Erosion Control Projects	<u>500,000</u>	
VII. DEPARTMENT OF AGRICULTURE		
Department of Agriculture		\$3,083,000
1. Analytical Chemistry		
Laboratory, Raleigh, North Carolina	\$2,188,000	
Fixed Equipment	390,000	
Movable Equipment	<u>95,000</u>	2,673,000
2. Sewer System Improvements, State Fairgrounds		300,000
3. Repairs to Dorton Arena		
State Fairgrounds	<u>110,000</u>	
IX. THE UNIVERSITY OF NORTH CAROLINA BOARD OF GOVERNORS		
Priority Group I		\$53,448,500
1. Utilities, Walks & Drives Improvements	\$6,835,000	
2. Library Expansions, Additions & Improvements	4,470,000	
3. Renovations, Improvements & Construction of Instructional Facilities	39,262,000	
4. Renovations, Improvements & Construction of Maintenance Facilities	2,149,500	
5. Renovations, Improvements & Construction of Administration Facilities	566,000	
6. Improvements to Athletic Facilities	366,000	
7. Land Acquisition	3,000,000	

Less Land Funds Transferred to Department of Administration	3,000,000	
Less Prior Appropriation	<u>200,000</u>	
Priority Group II		\$12,722,500
1. Remove Architectural Barriers at UNC-Chapel Hill, UNC-Asheville, East Carolina University	402,500	
2. Capital Improvement Funding	<u>12,320,000</u>	
University of North Carolina at Chapel Hill-Academic Affairs		-0-
1. Married Student Housing	\$8,600,000	
Movable Equipment	<u>200,000</u>	
	8,800,000	
Less Self-Liquidating	<u>8,800,000</u>	-0-
University of North Carolina at Chapel Hill-Health Affairs		-0-
1. Parking Deck	3,750,000	
Less Self-Liquidating	<u>3,750,000</u>	-0-
2. Continuing Education Center	3,540,000	
Fixed Equipment	500,000	
Movable Equipment	<u>270,000</u>	
	4,310,000	
Less Self-Liquidating	<u>4,310,000</u>	-0-
North Carolina Memorial Hospital		12,075,000
1. Renovate Fourth Floor for OB & Nurseries	960,000	
Fixed Equipment	150,000	
Movable Equipment	<u>70,000</u>	
	1,180,000	
Less Prior Appropriation	<u>285,000</u>	895,000
2. Renovate 3, 5, 6, 7th Floors	2,690,000	
Fixed Equipment	150,000	
Movable Equipment	<u>200,000</u>	3,040,000
3. Expansion of Hospital Supporting Services	6,790,000	
Fixed Equipment	750,000	
Movable Equipment	<u>600,000</u>	8,140,000
North Carolina State University at Raleigh		-0-
1. Parking Structure	2,160,000	
Less Self-Liquidating	<u>2,160,000</u>	-0-

2. Residence Hall for			
500	2,235,000		
Fixed Equipment	200,000		
Movable Equipment	<u>65,000</u>		
	2,500,000		
Less Self-Liquidating	<u>2,500,000</u>	-0-	
3. Married Student			
Apartments	4,300,000		
Fixed Equipment	<u>100,000</u>		
	4,400,000		
Less Self-Liquidating	<u>4,400,000</u>	-0-	
4. Chapel	200,000		
Fixed Equipment	12,000		
Movable Equipment	<u>3,000</u>		
	215,000		
Less Self-Liquidating	<u>215,000</u>	-0-	
5. Electrical Renovations			
Four Residence Halls	250,000		
Less Self-Liquidating	<u>250,000</u>	-0-	
University of North Carolina			
at Greensboro			-0-
1. Air Condition Gove			
Health Center	175,000		
Less Self-Liquidating	<u>175,000</u>	-0-	
2. Basement Renovation in			
Residence Halls	175,000		
Fixed Equipment	<u>25,000</u>		
	200,000		
Less Self-Liquidating	<u>200,000</u>	-0-	
3. Renovations in Guilford			
& Mary Foust Dormi-			
tories	250,000		
Less Self-Liquidating	<u>250,000</u>	-0-	
4. Married Student			
Apartments	1,950,000		
Fixed Equipment	<u>50,000</u>		
	2,000,000		
Less Self-Liquidating	<u>2,000,000</u>	-0-	
University of North Carolina			
at Charlotte			-0-
1. Parking Lot	340,000		
Less Self-Liquidating	<u>340,000</u>	-0-	
University of North Carolina			
at Wilmington			-0-
1. Student Union	1,363,000		
Fixed Equipment	50,000		
Movable Equipment	<u>80,000</u>		
	1,493,000		
Less Self-Liquidating	<u>1,493,000</u>	-0-	
2. Student Parking	75,000		

Less Self-Liquidating	<u>75,000</u>	-0-	
3. 200 Student Residence Hall	890,000		
Fixed Equipment	80,000		
Movable Equipment	<u>30,000</u>		
	1,000,000		
Less Self-Liquidating	<u>1,000,000</u>	-0-	
East Carolina University			-0-
1. Ficklen Stadium			
Lighting	300,000		
Less Self-Liquidating	<u>300,000</u>	-0-	
Western Carolina University			-0-
1. Fire Protection & Safety	149,600		
Less Appropriation	40,000		
Less Self-Liquidating	<u>109,600</u>	-0-	
Appalachian State University			-0-
1. Faculty Housing	995,000		
Fixed Equipment	<u>30,000</u>		
	1,025,000		
Less Self-Liquidating	<u>1,025,000</u>	-0-	
Pembroke State University			-0-
1. Air Condition Four (4) Residence Halls	560,000		
Less Self-Liquidating	<u>560,000</u>	-0-	
Winston-Salem State University			-0-
1. Atkins Hall Renovation	120,000		
Movable Equipment	<u>10,000</u>		
	130,000		
Less Self-Liquidating	<u>130,000</u>	-0-	
2. Plumbing Renovations			
Two Dormitories	145,000		
Less Self-Liquidating	<u>145,000</u>	-0-	
3. Parking Lots	42,500		
Less Self-Liquidating	<u>42,500</u>	-0-	
4. Colson Hall Renovation	120,000		
Movable Equipment	<u>10,000</u>		
	130,000		
Less Self-Liquidating	<u>130,000</u>	-0-	
5. 250 Student Dormitory	1,111,000		
Fixed Equipment	96,000		
Movable Equipment	<u>43,000</u>		
	1,250,000		
Less Self-Liquidating	<u>1,250,000</u>	-0-	
Elizabeth City State University			-0-

1. University Center			
Addition	444,000		
Fixed Equipment	20,000		
Movable Equipment	<u>50,000</u>		
	514,000		
Less Self-Liquidating	<u>514,000</u>	<u>-0-</u>	
Fayetteville State University			-0-
1. Student Center			
Addition	480,000		
Fixed Equipment	100,000		
Movable Equipment	<u>50,000</u>		
	630,000		
Less Self-Liquidating	<u>630,000</u>	<u>-0-</u>	
North Carolina Central University			-0-
1. Parking, Drives & Walks	70,000		
Less Appropriation	20,000		
Less Self-Liquidating	<u>50,000</u>	<u>-0-</u>	
2. Renovate Two Residence Halls	575,000		
Movable Equipment	<u>25,000</u>		
	600,000		
Less Self-Liquidating	<u>600,000</u>	<u>-0-</u>	
X. DEPARTMENT OF ART, CULTURE AND HISTORY			
Office of Archives and History			\$1,307,000
1. Reed Gold Mine			
General Restoration		\$330,000	
2. Duke Homestead Visitor Center - Museum	\$220,000		
Fixed Equipment	20,000		
Movable Equipment	<u>10,000</u>	250,000	
3. Reserve for Capital Improvements		420,000	
4. Repair and Restoration of Historic Sites	348,000		
Less Federal Funds	<u>174,000</u>	174,000	
5. Historic Preservation Fort Dobbs		43,000	
6. Historic Preservation Eagle Tavern		<u>90,000</u>	
XI. DEPARTMENT OF MILITARY AND VETERANS' AFFAIRS			
Armory Commission			\$290,625
1. Armory, New Bern, North Carolina	\$315,000		
Less Federal & Local Funds	<u>275,625</u>	\$39,375	

2. Armory, Washington, North Carolina	390,000	
Less Federal & Local Funds	<u>341,250</u>	48,750
3. Armory, Whiteville, North Carolina	295,000	
Less Federal & Local Funds	<u>258,125</u>	36,875
4. Armory, Dunn, North Carolina	250,000	
Less Federal & Local Funds	<u>218,750</u>	31,250
5. Armory, Canton/Waynesville, North Carolina	325,000	
Less Federal & Local Funds	<u>284,375</u>	40,625
6. Armory, Monroe, North Carolina	315,000	
Less Federal & Local Funds	<u>275,625</u>	39,375
7. Armory, High Point, North Carolina	435,000	
Less Federal & Local Funds	<u>380,625</u>	<u>54,375</u>

Sec. 5. There is hereby appropriated out of the Highway Fund the sum of eight million five hundred fifty-one thousand three hundred forty-nine dollars (\$8,551,349) for the use of the Department of Motor Vehicles and the State Highway Commission to provide for CAPITAL IMPROVEMENT projects according to the following schedule:

III. DEPARTMENT OF TRANSPORTATION AND HIGHWAY SAFETY	
Highway Commission	\$5,889,349
1. Bridge Maintenance Combination Truck Shed and Blacksmith Shop Selma, N. C.	\$42,000
2. Sub-Shop & Storage Building, Ferry Division, Cherry Point, N. C.	85,000
3. Well, Septic Tank & Pumphouse, Peachtree, N. C.	8,000
4. Division Office Annex Asheville, N. C.	220,000
5. Maintenance Headquarters & Assembly Building Statesville, N. C.	42,000
6. District Office Building North Wilkesboro, N. C.	70,000
7. Division Office Complex Charlotte, N. C.	390,000
8. Land Acquisition & Fencing Salisbury, N. C.	18,000

9. Salt Storage Bin Siler City, N. C.	12,000
10. Landscape Storage Warehouse & Truck Shed, Wentworth, N. C.	42,000
11. Land Acquisition, Fayetteville, N. C.	20,000
12. Maintenance Headquarters & Assembly Building, Bunn, N. C.	42,000
13. Well & Sewage Treatment Plant, Wayne County	25,000
14. District Office Building Wilmington, N. C.	70,000
15. Maintenance Headquarters & Assembly Building, Williamston, N. C.	38,000
16. Ferry Operations Office & Restroom Facilities, North End Ocracoke Island	20,000
17. Geological Survey Office Building & Truck Shed Asheville, N. C.	35,000
18. Lab Addition & Renovation Statesville, N. C.	8,000
19. Service Station Peachtree, N. C.	8,000
20. Maintenance Headquarters & Assembly Building & Fence Winston-Salem, N. C.	67,000
21. Salt Storage Bin Asheboro, N. C.	12,000
22. Maintenance Headquarters & Assembly Building White Lake, N. C.	40,000
23. District Office Building Wayne County	75,000
24. Division Office Building Greenville, N. C.	155,000
25. Bridge Maintenance Lumber Shed & Combination Truck Shed & Blacksmith Shop, Wayne County	65,000
26. Maintenance Headquarters & Assembly Building Peachtree, N. C.	60,000
27. Maintenance Headquarters & Assembly Building Newton, N. C.	42,000
28. Equipment Storage Shed Mount Pleasant, N. C.	39,000
29. Perimeter Fencing Carthage & Sanford, N. C.	37,000

30. Four-Bay Wash & Grease Building Camp Burton, N. C.	44,000
31. Three-Bay Wash & Grease Building Roxboro, N. C.	37,000
32. Combination Shop & Storage Building, Williamston, N. C.	50,000
33. Bridge Maintenance Lumber Shed, Peachtree, N. C.	28,000
34. Maintenance Headquarters & Assembly Building Taylorsville, N. C.	40,000
35. Chemical Storage Building Boone, N. C.	22,000
36. Equipment Storage Buildings Albemarle, N. C.	39,000
37. Maintenance Headquarters & Assembly Building & Fence Stokes County	68,500
38. Salt Storage Bin Raeford, N. C.	12,000
39. Sign Shop Camp Burton, N. C.	75,000
40. Equipment Storage Shed Fayetteville, N. C.	48,000
41. Paint Storage Building & Sign Shop, Durham, N. C.	-0-
42. District Office Building Wilmington, N. C.	70,000
43. Service Station Williamston, N. C.	8,000
44. Laboratory Addition Fayetteville, N. C.	5,000
45. Location Field Survey Office Building, Charlotte, N. C.	70,000
46. Perimeter Fence, Marble, N. C.	21,000
47. Equipment Storage Building Polkton, N. C.	39,000
48. Combination Truck Shed Storage Building & Shop, Cherokee County	64,000
49. Combination Headquarters, Assembly & Storage Building Ashe County	55,000
50. Resident Engineer's Office Building, Aberdeen, N. C.	70,000
51. Perimeter Fence Lumberton, N. C.	4,600
52. Maintenance Headquarters & Assembly Building Warrenton, N. C.	40,000

53. Maintenance Headquarters & Assembly Building Wayne County	62,500
54. Powder & Exploder Cap Magazine, Peachtree, N. C.	7,000
55. Blacksmith Shop Shelby, N. C.	25,000
56. Tool & Supply Building North Wilkesboro, N. C.	6,000
57. Signal Shop & Storage Building, Aberdeen, N. C.	37,000
58. Traffic Services Field Shop, Henderson, N. C.	15,000
59. Landscape Office & Assembly Building, Burgaw, N. C.	19,000
60. Combination Lumber Shed, Storage Building & Shop & Perimeter Fence, Lake Junaluska, N. C.	78,000
61. Service Station Lake Junaluska, N. C.	8,000
62. Land Acquisition Asheville, N. C.	40,000
63. Perimeter Fence Taylorsville & Newton, N. C.	26,500
64. Maintenance Headquarters, Assembly & Shop Building & Fencing, Mocksville, N. C.	73,500
65. Sign Storage Warehouse Camp Burton, N. C.	48,000
66. Maintenance Headquarters & Assembly Building & Service Station, Roxboro, N. C.	55,000
67. Four-Bay Wash & Grease Building, Wayne County	42,000
68. Add Central Heating & Air Conditioning, Division Sign Shop, Wilmington, N. C.	4,000
69. Three-Bay Wash & Grease Building, Trenton, N. C.	37,000
70. Division Traffic Services Yard, Hertford County	150,000
71. Four Office Buildings Charlotte, N. C.	225,000
72. Perimeter Fence, Burgaw & Wilmington, N. C.	23,500
73. Materials & Test Darkroom Structure, Method, N. C.	20,000
74. Location Field Survey Office Building, Fayetteville, N. C.	40,000

75. Maintenance Headquarters & Assembly Building, Lake Junaluska, N. C.	60,000
76. Storage Building Winston-Salem, N. C.	22,000
77. Sign Shop Truck Sheds Camp Burton, N. C.	40,000
78. Landscape Storage Warehouse Durham, N. C.	48,000
79. Combination Warehouse & Service Station, Wayne County	45,000
80. Equipment Storage Shelter Duplin County	24,000
81. Three-Bay Wash & Grease Building, Grantsboro, N. C.	34,000
82. Bridge Maintenance Office, Warehouse Lumber Shed & Truck Shed, Salisbury, N. C.	78,000
83. Maintenance Storage Building Lake Junaluska, N. C.	48,000
84. Maintenance Headquarters Assembly & Storage Building Marshall, N. C.	45,000
85. Storage Building Danbury, N. C.	22,000
86. Conversion of Truck Shed to Paint Storage Shed Camp Burton, N. C.	-0-
87. Storage Building Oxford, N. C.	24,000
88. Equipment Storage Shed Selma, N. C.	42,000
89. Land Acquisition New Bern, N. C.	20,000
90. Maintenance Headquarters & Assembly Building Northampton County	35,000
91. Location Field Survey Office Building, Greensboro, N. C.	30,500
92. Sign Shop, Lexington, N. C.	17,500
93. Land Acquisition Grantsboro, N. C.	12,000
94. Bridge Maintenance Office & Combination Warehouse & Lumber Shop, Union, N. C.	60,000
95. Relocate Equipment Storage Shed, Lake Junaluska, N. C.	16,500
96. Maintenance Headquarters, Assembly & Storage Building Marion, N. C.	48,000

97. Sign Shop, Danbury, N. C.	17,500
98. Storage Building Henderson, N. C.	24,000
99. Perimeter Fence Wayne County	27,000
100. Perimeter Fence, Newport & Greenville, N. C.	21,500
101. Combination Office, Shop & Storage Building Perquimans County	58,000
102. Equipment Sub-Shop Morganton, N. C.	70,000
103. Salt Storage Bin Lake Junaluska, N. C.	12,000
104. Traffic Services Field Shop Bunn, N. C.	15,000
105. Landscape Storage Building Henderson, N. C.	12,000
106. Equipment Storage Building Steel Creek, N. C.	39,000
107. Equipment Storage Building Wayne County	42,000
108. Bridge Maintenance Office & Lumber Shed, Whittier, N. C.	45,000
109. Equipment Sub-Shop Sparta, N. C.	70,000
110. Maintenance Headquarters & Assembly Building Hendersonville, N. C.	42,000
111. Maintenance Headquarters, Assembly & Storage Building Spruce Pine, N. C.	40,000
112. Combination Office, Shop & Storage Building Gates County	58,000
113. Bridge Maintenance Office, Lumber Shed Warehouse, Truck Shed & Combination Warehouse & Blacksmith Shop Hendersonville, N. C.	83,000
114. Equipment Sub-Shop Marshall, N. C.	70,000
115. Salt Storage Bin Polk County	20,000
116. Service Station Gates County	8,000
117. Bridge Maintenance Office & Combination Lumber Shed & Cement Warehouse Franklin, N. C.	-0-

118. Equipment Sub-Shop Spruce Pine, N. C.		70,000	
119. Powder & Exploder Cap Magazines, Webster, N. C.		7,000	
120. Perimeter Fence Maple, N. C.		10,500	
121. Equipment Sub-Shop Newland, N. C.		60,000	
122. Perimeter Fence, Transylvania, Henderson & Polk Counties		58,000	
123. Site Grading Buncombe County		73,749	
124. Equipment Sub-Shop Raeford, N. C.		60,000	
125. Addition to Maintenance Office, Webster, N. C.		8,000	
126. Perimeter Fence, Buncombe, Madison, McDowell, Rutherford & Yancey Counties		77,500	
127. Equipment Sub-Shop Bunn, N. C.		60,000	
128. Maintenance Headquarters & Assembly Building Buncombe County		-0-	
129. Equipment Sub-Shop Maple, N. C.		60,000	
130. Equipment Sub-Shop Trenton, N. C.		<u>60,000</u>	
Department of Motor Vehicles			2,662,000
1. Electrical Mechanical Renovations, Motor Vehicles Building Raleigh, N. C.		391,000	
2. Addition to Motor Vehicles Building Raleigh, N. C.	1,250,000		
Fixed Equipment	50,000		
Movable Equipment	<u>50,000</u>	1,350,000	
3. Office Building Ahoskie, N. C.	147,500		
Movable Equipment	4,500		
Land	<u>8,000</u>	160,000	
4. Radio Repair Shop Greensboro, N. C.		30,000	
5. Office Building Addition Fayetteville, N. C.	100,000		
Movable Equipment	<u>3,000</u>	103,000	
6. Radio Communications Center Williamston, N. C.	115,000		

Movable Equipment	<u>5,000</u>	120,000
7. Office Building		
Kenansville, N. C.	147,000	
Movable Equipment	<u>4,500</u>	
Land	<u>8,000</u>	160,000
8. Office Building,		
Hendersonville	147,500	
Movable Equipment	<u>4,500</u>	
Land	<u>10,000</u>	162,000
9. Highway Patrol		
Building, Granville		
County		<u>186,000</u>

Sec. 6. There is hereby appropriated out of the Wildlife Resources Fund the sum of two hundred forty-three thousand four hundred eighty-six dollars (\$243,486) to provide for CAPITAL IMPROVEMENT projects for the Wildlife Resources Commission according to the following schedule:

VI. DEPARTMENT OF NATURAL AND ECONOMIC RESOURCES

Wildlife Resources Commission		\$243,486
1. Trout Hatchery Project	\$39,000	
Fixed Equipment	<u>30,000</u>	\$69,000
2. Equipment Building		
Workshops		50,000
3. Land Acquisition		
Game (Statewide)		44,486
4. Land Acquisition		
Boating & Fishing		
(Statewide)		10,000
5. Boating Access Develop-		
ment (Statewide)		<u>70,000</u>

Sec. 7. When each project appropriated for in Section 4 of this act, other than those projects under the University of North Carolina Board of Governors, is placed under construction contract, direct appropriations therefor shall be encumbered to include all costs for construction, design, investigation, administration, movable equipment and a reasonable contingency. Surplus direct appropriations remaining in the project budget after encumbering costs described above shall be placed in a Project Reserve Fund credited to the Department of Administration. Use of this Project Reserve Fund shall be at the discretion of the Director of the Budget, and solely to allow for award of contracts where bids exceed appropriated funds, on condition that such project supplemented shall have been designed within the physical scope intended by the applicable appropriation or any authorized change therein, and all means to award contracts within the appropriation shall have been reasonably attempted in the opinion of the Director of the Budget. The Project Reserve Fund shall not be used in connection with any projects under the University of North Carolina Board of Governors. At the discretion of the Advisory Budget Commission, any balances in the Project Reserve Fund shall revert to the original source.

Sec. 8. The Governor and Advisory Budget Commission are authorized and empowered to delete any CAPITAL IMPROVEMENT project as provided in this act and substitute therefor any other CAPITAL IMPROVEMENT project or projects which on the request of the department, agency or

institution, and in the opinion of the Governor and the Advisory Budget Commission, shall be deemed to be in the best interest of the State. Such substituted projects shall take precedence over projects enumerated in this act within the limit of funds provided to the requesting department, agency or institution in this appropriation.

Sec. 9. The Advisory Budget Commission may, when in its opinion it is in the best interest of the State to do so, and upon the request of the department, institution, or agency, authorize an increase or a decrease in size, scope, direct or self-liquidating appropriation, of any project or projects enumerated in this act within the funds available to that department, agency or institution.

Sec. 10. There is authorized under Section 4 of this act, the sum of four million five hundred thousand dollars (\$4,500,000) as a supplement to previous appropriations and authorizations in connection with the construction, equipping and furnishing of a new State Art Museum Building. It is the intent of the General Assembly of North Carolina that this appropriation of four million five hundred thousand dollars (\$4,500,000) shall be reserved and used with funds previously appropriated and with funds derived from other sources such as private gifts, grants and other non-State funds made available by individuals, corporations, foundations and others; and shall be used as requested by the State Art Museum Building Commission subject to the approval of the Governor and the Advisory Budget Commission. Provisions of this act relative to reversion shall not be applicable to this appropriation.

Sec. 11. The Director of the Budget is authorized and empowered to advance from the land-purchase appropriations made in this act, funds necessary for purchase of recreational land for which there is either no specific appropriation or only a partial appropriation, when reimbursement of such advances will be later effected by the Federal Bureau of Outdoor Recreation.

Sec. 12. There are appropriated in Section 4 of this act certain lump sums specifically to the Department of Social Rehabilitation and Control, Office of Correction; the Department of Natural and Economic Resources, Office of Forest Resources; the Department of Natural and Economic Resources, Office of State Parks; the Department of Art Culture and History; and the Department of Natural and Economic Resources, Office of Water and Air Resources, from the General Fund. Such lump sums of funds shall be used for specific projects of CAPITAL IMPROVEMENTS from time to time and in accordance with the priority needs of the respective agencies, and as approved by the Advisory Budget Commission generally as described and set forth in Volume III of the Budget. In the case of the Department of Natural and Economic Resources, Office of Water and Air Resources, the lump sum of monies is intended by the General Assembly primarily to supplement funds from federal and/or local sources for projects approved by the Advisory Budget Commission to accomplish the purposes indicated in this act. The proportion of State funds shall be in accordance with formulae of the federal agency or in reasonable proportion as approved by the Advisory Budget Commission.

Sec. 13. There is appropriated in Section 4 of this act a lump sum to the University of North Carolina Board of Governors. Expenditure of funds in this appropriation shall be in accordance with provisions of Chapter 1244 of the 1971 Session Laws, and provisions of this act except where specifically excluded.

Sec. 14. There is appropriated in Section 4 of this act the sum of two hundred fifty thousand dollars (\$250,000) to the Department of Administration

for the purpose of making unanticipated emergency repairs to State-owned physical facilities. The intent of this appropriation is to provide for unanticipated emergency situations which may arise in connection with any physical facility owned by the State of North Carolina. Expenditure of funds out of this account shall be subject to approval by the Advisory Budget Commission. An accounting of expenditures from this appropriation shall be made by the Advisory Budget Commission to the Appropriations Committee at the next session of the General Assembly.

Sec. 15. Subject to any transfers and changes between appropriations as permitted in previous sections of this act, the appropriations for CAPITAL IMPROVEMENTS made in this act shall be expended only for specific projects set out in this act. Construction of all CAPITAL IMPROVEMENT projects enumerated in this act shall be commenced or self-liquidating indebtedness with respect thereto shall be incurred on or before December 31, 1974; if construction on such project or projects has not been commenced or self-liquidating indebtedness has not been incurred on or before December 31, 1974, then the direct appropriation for such project or projects shall revert to the original source, and the self-liquidating appropriation shall lapse; except that direct appropriations may be placed in the Project Reserve Fund; provided, however, that subject to the approval of the Governor and the Advisory Budget Commission this deadline with respect to both direct and self-liquidating appropriations may be extended when, in the discretion of the Governor and the Advisory Budget Commission, existing circumstances and conditions warrant such extension.

Sec. 16. Any unencumbered direct appropriation balances remaining in the CAPITAL IMPROVEMENT funds of 1971 appropriated for construction and equipment shall revert to the original source on December 31, 1973; provided that the Governor and Advisory Budget Commission may grant further extension for specific projects in such cases where conditions warrant.

Sec. 17. The several departments, institutions, and agencies of the State are fully authorized and empowered to make application or applications to any agency or agencies of the United States of America for grant-in-aid for the construction of the several projects in this act and within the scope and intent of the projects enumerated in this act and to expend the same in accordance with the terms of such grants which are not contrary to the laws of this State. The Advisory Budget Commission and the Department of Administration, in its pertinent divisions, shall be furnished in advance with copies of all requests for federal funds and this information shall be kept current.

Sec. 18. It is the intent of this General Assembly that, of the appropriations enumerated above in this act, the items listed below are to be financed from the General Revenue Sharing Trust Fund of the State, and that all the provisions of this act which are applicable to the remaining items are also applicable to those funded from the General Revenue Sharing Trust Fund of the State, to the end of providing maximum flexibility for the expenditure of the appropriations made herein consistent with federal regulations governing expenditure of general shared federal revenue.

DEPARTMENT OF ADMINISTRATION

State Office Building	\$9,795,000
Purchase of land: Raleigh area, Institutions and Park lands	14,500,000
Cape Lookout National Seashore	5,000,000

DEPARTMENT OF TRANSPORTATION AND HIGHWAY SAFETY

North Carolina State Ports Authority	8,295,000
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DEPARTMENT OF SOCIAL REHABILITATION AND CONTROL

Office of Correction	
Caledonia Prison	1,860,000
Central Prison	2,395,000
Stonewall Jackson School	1,601,000

DEPARTMENT OF HUMAN RESOURCES

Dorothea Dix Hospital	3,785,000
Broughton Hospital	1,200,000
Western Carolina Center	960,000
Cherry Hospital	3,708,400
O'Berry Center	369,500
John Umstead Hospital	1,155,000
Murdoch Center	1,120,000
Caswell Center	1,350,000
Governor Morehead School	3,302,000
North Carolina School for the Deaf	999,000
North Carolina Orthopedic Hospital	740,000
North Carolina Cerebral Palsy Hospital	400,000

DEPARTMENT OF NATURAL AND ECONOMIC RESOURCES

North Carolina Board of Science and Technology	344,000
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DEPARTMENT OF AGRICULTURE 2,673,000

UNIVERSITY OF NORTH CAROLINA BOARD OF GOVERNORS

Library Expansions, Additions and Improvements	4,470,000
Renovations, Improvements and Construction of Instructional Facilities	24,888,600
Renovations, Improvements and Construction of Maintenance Facilities	2,149,500
North Carolina Memorial Hospital	8,140,000

Total \$105,200,000

Sec. 19. This act shall be in full force and effect July 1, 1973.

In the General Assembly read three times and ratified, this the 16th day of May, 1973.

H. B. 392

CHAPTER 524

AN ACT TO PROVIDE THAT THE STATE BOARD OF HEALTH HAS 180 DAYS IN WHICH TO SIMILARLY CONTROL A CONTROLLED SUBSTANCE AS CONTROLLED BY THE FEDERAL GOVERNMENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-88(d) is hereby rewritten to read as follows:

“(d) If any substance is designated, rescheduled or deleted as a controlled substance under federal law, the North Carolina State Board of Health shall similarly control, or cease control of, the substance under this Article after the expiration of 180 days from publication in the Federal Register of a final order designating a substance as a controlled substance unless, within the 180-day period, the North Carolina State Board of Health objects to such inclusion. In such case, the North Carolina State Board of Health shall cause to be published and made public the reason for such objection and shall afford all interested parties an opportunity to be heard. At the conclusion of such meeting, the North Carolina State Board of Health shall make public its decision, which shall be final unless specifically acted upon by the North Carolina General Assembly. Upon publication of objection to inclusion under this Article by the North Carolina State Board of Health, control under this section shall automatically be stayed until such time as the North Carolina State Board of Health makes public its decision.”

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of May, 1973.

H. B. 427

CHAPTER 525

AN ACT TO AMEND G.S. 160A-360 TO PRESERVE VESTED RIGHTS UPON A CHANGE IN MUNICIPAL JURISDICTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-360 is amended by rewriting subsection (i) thereof, to read as follows:

“(i) Whenever a city or county, pursuant to this section, acquires jurisdiction over a territory that theretofore has been subject to the jurisdiction of another local government, any person who has acquired vested rights under a permit, certificate, or other evidence of compliance issued by the local government surrendering jurisdiction may exercise those rights as if no change of jurisdiction had occurred. The city or county acquiring jurisdiction may take any action regarding such a permit, certificate, or other evidence of compliance that could have been taken by the local government surrendering jurisdiction pursuant to its ordinances and regulations. Except as provided in this subsection, any building, structure, or other land use in a territory over which a city or county has acquired jurisdiction is subject to the ordinances and regulations of the city or county.”

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of May, 1973.

H. B. 702

CHAPTER 526

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF EMERALD ISLE AND TO REPEAL PRIOR CHARTER ACTS.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Emerald Isle is hereby revised and consolidated to read as follows:

“THE CHARTER OF THE TOWN OF EMERALD ISLE

“ARTICLE I. INCORPORATION AND CORPORATE POWERS

“Section 1.1. *Incorporation and General Powers.* The Town of Emerald Isle shall continue to be a body politic and corporate under the name of the ‘Town of Emerald Isle’, and shall continue to be vested with all property and rights which now belong to the Town; shall have perpetual succession; may have a common seal and alter and renew the same at pleasure; may sue and be sued; may contract, may acquire and hold all such property, real and personal, as may be devised, bequeathed, sold or in any manner conveyed or dedicated to it, or otherwise acquired by it, and may from time to time hold or invest, sell, or dispose of the same; and shall have and may exercise in conformity with this Charter all municipal powers, functions, rights, privileges, and immunities of every name and nature.

“Sec. 1.2. *Exercise of Powers.* All powers, functions, rights, privileges, and immunities of the Town, its officers, agencies, or employees, shall be carried into execution as provided by this Charter, or, if this Charter makes no provision, as provided by ordinance or resolution of the Board of Commissioners and as provided by the general laws of North Carolina pertaining to municipal corporations.

“Sec. 1.3. *Enumerated Powers Not Exclusive.* The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive but, in addition to the powers enumerated herein or implied hereby, or those appropriate to the exercise of such powers, the Town of Emerald Isle shall have and may exercise all powers which are granted to municipal corporations by the general laws of North Carolina and all powers which, under the Constitution of North Carolina, it would be competent for this Charter specifically to enumerate.

“ARTICLE II. CORPORATE BOUNDARIES

“Sec. 2.1. *Existing Corporate Boundaries.* The corporate boundaries of the Town of Emerald Isle shall be as follows until changed in accordance with law: Beginning at a concrete marker at the high water mark of the Atlantic Ocean, this being the southwest corner of Wica Chemical Company property (formerly being the Roosevelt Estate southwest corner), this point also being located South 71 degrees 35 minutes West 7255.0 feet from the church spire at Salter Path Village, located North of the Salter Path Road; thence running with the Wica Chemical Company West property line North 03 degrees 35 minutes West 452.80 feet to a concrete monument marked ‘A. H. (Alice Hoffman) Lane’; thence continuing same course 203.7 feet to a concrete monument at the high water mark of Bogue Sound (Wica Chemical Company northwest corner); thence continuing North 03 degrees 35 minutes West 1350 feet to a point in Bogue Sound; then in a westerly direction parallel to and 1320 feet from the water line of Bogue Sound to a point in Bogue Sound formed by the intersection

of this call and a line perpendicular thereto passing through the westernmost projection of Bogue banks at the mean high water mark; thence southerly along said line as extended to a point where said line meets the high water line of the Atlantic Ocean; thence due South 2640 feet to a point in the Atlantic Ocean; thence in an easterly direction parallel to and 2640 feet from the high water line of the Atlantic Ocean to a point which is 2640 feet South 03 degrees 35 minutes East from the concrete monument which is heretofore described as the point of the beginning; thence continuing North 03 degrees 35 minutes West 2640 feet to the point of beginning. All the above courses are based on true meridian.

"Sec. 2.2. *Extension of Corporate Boundaries.* All extensions of the corporate boundaries shall be governed by the General Statutes of North Carolina.

"ARTICLE III. MAYOR AND BOARD OF COMMISSIONERS

"Sec. 3.1. *Composition of Board of Commissioners.* The Board of Commissioners shall consist of five members to be elected by the qualified voters in the manner provided in Article IV of this Charter.

"Sec. 3.2. *Mayor and Mayor Pro Tempore.* The Mayor shall be elected by and from the qualified voters in the manner provided in Article IV of this Charter. The Mayor shall be the official head of the Town government and shall preside at all meetings of the Board of Commissioners. When there is an equal division on a question, the Mayor shall resolve the deadlock by his vote, but he shall vote in no other case. The Mayor shall exercise such powers and perform such duties as are or may be conferred upon him by the general laws of North Carolina, by this Charter, and by the ordinances of the Town. The Board of Commissioners shall choose one of its number to act as Mayor Pro Tempore, and he shall perform the duties of the Mayor in the Mayor's absence or disability. The Mayor Pro Tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the Board.

"Sec. 3.3. *Terms; Qualifications; Vacancies.* (a) The Mayor and members of the Board of Commissioners shall serve for terms of two years, beginning the day and hour of the organizational meeting following their elections, as established by ordinance in accordance with this Charter; provided, they shall serve until their successors are elected and qualify.

(b) No person shall be eligible to be a candidate or be elected as Mayor or as a member of the Board of Commissioners or to serve in such capacity, unless he is a qualified voter of the Town.

(c) In the event a vacancy occurs in the office of Mayor or Commissioner, the Board shall by majority vote appoint some qualified person to fill the same for the remainder of the unexpired term.

"Sec. 3.4. *Organization of Board of Commissioners, Oaths of Office.* The Board of Commissioners shall meet and organize for the transaction of business at the first regularly scheduled meeting of the Board following each biennial election. Before entering upon their offices, the Mayor and each Commissioner shall take, subscribe to and have entered upon the minutes of the Board the following oath of office:

'I, _____, do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office as _____, so help me God.'

"Sec. 3.5. *Meetings of Board.* The Board of Commissioners shall fix a suitable time and place for its regular meetings, which shall be held at least as often as once monthly. Special meetings may be held according to the procedures and requirements designated by the general laws of North Carolina pertaining to special meetings of City Councils.

"ARTICLE IV. ELECTIONS

"Sec. 4.1. *Regular Municipal Elections.* Regular municipal elections shall be held biennially in odd-numbered years on the day set by general law for municipal elections. In each election, the candidate for Mayor who receives the largest number of votes cast for Mayor shall be declared elected for a term of two years and the five candidates for Commissioner who receive the largest numbers of votes cast for Commissioner shall be declared elected for terms of two years.

"Sec. 4.2. *Regulation of Elections.* The Town Board of Commissioners shall appoint a municipal board of elections to conduct the town's elections and to certify the results thereof directly to the State Board of Elections. Permanent residents and natural persons who are freeholders in the Town of Emerald Isle and also residents of the State of North Carolina and otherwise qualified to vote in the State of North Carolina shall be allowed to vote in the municipal elections of the Town of Emerald Isle and to hold elective and appointive office in the Town of Emerald Isle. Except as set forth herein, all town elections shall be conducted in accordance with the general laws of the State of North Carolina relating to municipal elections.

"ARTICLE V. TOWN ATTORNEY

"Sec. 5.1. *Appointment; Qualifications; Term; Compensation.* The Board of Commissioners shall appoint a Town Attorney who shall be an attorney-at-law licensed to engage in the practice of law in North Carolina and who need not be a resident of the Town during his tenure. The Town Attorney shall serve at the pleasure of the Board and shall receive such compensation as the Board shall determine.

"Sec. 5.2. *Duties of Town Attorney.* It shall be the duty of the Town Attorney to prosecute and defend suits for and against the Town; to advise the Mayor, Board of Commissioners and other Town officials with respect to the affairs of the Town; to draft all legal documents relating to the affairs of the Town; to draft proposed ordinances when requested to do so; to inspect and pass upon all agreements, contracts, franchises and other instruments with which the Town may be concerned; to attend all meetings of the Board of Commissioners when required by the Board; and to perform such other duties as may be required of him by virtue of his position as Town Attorney.

"ARTICLE VI. ADMINISTRATIVE OFFICERS AND EMPLOYEES

"Sec. 6.1. *Town Clerk.* The Board of Commissioners shall appoint a Town Clerk to keep a journal of the proceedings of the Board of Commissioners and to maintain in a safe place all records and documents pertaining to the affairs of the Town, and to perform such other duties as may be required by law or as the Board of Commissioners may direct.

"Sec. 6.2. *Town Tax Collector.* The Board of Commissioners shall appoint a Tax Collector to collect all taxes, licenses, fees and other moneys belonging to the Town, subject to the provisions of this Charter and the ordinances of the Town, and he shall diligently comply with and enforce all the general laws of North Carolina relating to the collection, sale, and foreclosure of taxes by municipalities.

"Sec. 6.3. *Town Budget Officer.* The Board of Commissioners shall appoint a Town Budget Officer to perform the duties of the Budget Officer as required by the Local Government Budget and Fiscal Control Act.

"Sec. 6.4. *Town Finance Officer.* The Board of Commissioners shall appoint a Town Finance Officer to perform the duties of the Finance Officer as required by the Local Government Budget and Fiscal Control Act.

"Sec. 6.5. *Consolidation of Functions.* The Board of Commissioners may consolidate any two or more of the positions of Town Clerk, Town Tax Collector, Town Budget Officer and Town Finance Officer or may assign the functions of any one or more of these positions to the holder or holders of any other of these positions.

"ARTICLE VII. FINANCE

"Sec. 7.1. *Custody of Town Money.* All moneys received by the Town for or in connection with the business of the Town government shall be paid promptly into the Town depository or depositories. Such institutions shall be designated by the Town Board in accordance with the regulations and subject to the requirements as to security for deposits and interest thereon as may be established by the General Statutes of North Carolina. All interest on moneys belonging to the Town shall accrue to the benefit of the Town. All moneys belonging to the Town shall be disbursed in accordance with the provisions of the Local Government Budget and Fiscal Control Act.

"Sec. 7.2. *Independent Audit.* As soon as possible after the close of each fiscal year, an independent audit shall be made of all books and accounts of the Town government by a certified public accountant or an accountant certified by the Local Government Commission. The audit shall be secured in accordance with the provisions of the Local Government Budget and Fiscal Control Act.

"ARTICLE VIII. POLICE

"Sec. 8.1. *Jurisdiction.* The jurisdiction of the police force is hereby extended to include all Town-owned property and facilities whether located within or outside the corporate limits, and all members of the police force shall have upon and within such property and facilities all rights, power and authority as they have within the corporate limits.

"ARTICLE IX. STREET AND SIDEWALK IMPROVEMENTS

"Sec. 9.1. *Street Improvements; Assessment of Costs.* In addition to any authority which is now or may hereafter be granted by general law to the Town for making street improvements the board of Commissioners is hereby authorized to make street improvements and to assess the cost thereof against abutting property owners in accordance with the provisions of this Article.

"Sec. 9.2. *When Petition Unnecessary.* The Board of Commissioners may order street improvements and assess the cost thereof, exclusive of the costs incurred at street intersections, against the abutting property owners, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A (or any successor or revision thereto) of the North Carolina General Statutes, without the necessity of a petition, upon the finding by the Board as a fact:

(a) That the street improvement project does not exceed 1,200 linear feet, and

(b) That such street or part thereof is unsafe for vehicular traffic and it is in the public interest to make such improvement, or

(c) That it is in the public interest to connect two streets, or portions of a street already improved, or

(d) That it is in the public interest to widen a street, or part thereof, which is already improved; provided, that assessments for widening any street or portion of street without a petition shall be limited to the cost of widening and otherwise improving such street in accordance with the street classification and improvement standards established by the Town's thoroughfare or major street plan for the particular street or part thereof to be widened and improved under the authority granted by this Article.

"Sec. 9.3. *Street Improvement Defined.* For the purposes of this Article, the term 'street improvement' shall include grading, regrading, surfacing, resurfacing, widening, paving, repaving, the acquisition of right-of-way, and the construction or reconstruction of curbs, gutters and street drainage facilities.

"Sec. 9.4. *Sidewalks; Assessment of Costs.* In addition to any authority which is now or may hereafter be granted by general law to the Town for making sidewalk improvements, the Board of Commissioners is hereby authorized to make or to order to be made sidewalk improvements or repairs according to standards and specifications of the Town, and to assess the total cost thereof against abutting property owners; provided, however, that the Board of Commissioners may order the cost of sidewalk improvements made only on one side of a street to be assessed against property owners abutting both sides of such street.

"Sec. 9.5. *Assessment Procedure.* In ordering street and sidewalk improvements without a petition and assessing the cost thereof under authority of this Article, the Board of Commissioners shall comply with the procedure provided by Article 10, Chapter 160A (or any successor or revision thereto) of the General Statutes, except those provisions relating to the petition of property owners and the sufficiency thereof.

"Sec. 9.6. *Effect of Assessments.* The effect of the act of levying assessments under the authority of this Article shall for all purposes be the same as if the assessments were levied under authority of Article 10 of Chapter 160A (or any successor or revision thereto) of the General Statutes.

"Sec. 9.7. *Acceptance of Conveyance in Satisfaction of Assessments.* The Town Tax Collector or other official or employee of the Town having charge of the collection of special assessments, shall have the right, power, and authority by and with the approval of the Board of Commissioners first obtained and had, to receive and accept a fee simple conveyance to the Town of any lot or parcel of land in the Town, free and clear of other encumbrances, in full settlement and satisfaction of all street and sidewalk assessments outstanding and unpaid against such property. Such right, power, and authority, however, shall be limited to a conveyance of the whole of the lot or parcel of land against which the particular assessment or assessments involved were levied. No lot or tract of land may be divided and no such right, power, and authority exercised as to a part, only, of the property originally embraced in and covered by said assessment or assessments. In the case of such conveyance, it shall not be necessary that the street or sidewalk assessment or assessments against the property be foreclosed; but the Town, upon the receipt of any such conveyance, shall become and be the absolute fee simple owner of the property, as fully to all intents and purposes as if purchased in and through foreclosure proceedings for the enforcement of such street and sidewalk assessment or assessments.

“ARTICLE X. CLAIMS AGAINST THE TOWN**“Sec. 10.1. *Presentation of Claims; Suit Upon Claims.***

(a) All claims or demands against the Town of Emerald Isle arising in tort or in contract shall be presented to the Board of Commissioners in writing, signed by the claimant, his attorney or agent, within 90 days after the claim or demand is due or the cause of action accrues, and no suit or action shall be brought thereon within 30 days or after expiration of 12 months from the time said claim or demand is so presented. Unless the claim or demand is so presented within 90 days after the cause of action accrues, and unless suit is brought within 12 months thereafter, any action thereon is barred.

(b) No action shall be instituted against the Town for damages to or compensation for real property taken or used by the Town for any public purpose, or for the ejectment of the Town therefrom, or to remove a cloud upon the title thereof, unless, within two years after such alleged use, the owner, his executor, administrator, guardian, or next friend, shall have given notice in writing to the Board of Commissioners of the claim, stating in the notice the date that the alleged use commenced, a description of property alleged to have been used, and the amount of the damage or compensation claimed.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, if a complainant suffers from physical or mental incapacity that renders it impossible for him to give notice, his action shall not be barred if notice of claim is given by him or on his behalf within six months after the termination of his incapacity; provided, that minority shall not of itself constitute physical or mental incapacity. If the complainant is a minor, his action shall not be barred if notice of claim is given on his behalf within three years after the occurrence or the infliction of the injury complained of, or, if the minor suffers from physical or mental incapacity that renders it impossible for him to give notice, his action shall not be barred if notice of claim is given on his behalf within six months after termination of the incapacity, or within three years after the occurrence or the infliction of the injury complained of, whichever is the longer period. The Town may at any time request the appointment of a next friend to represent any person having a potential claim against the Town and unknown to be suffering from physical or mental incapacity.”

Sec. 2. The purpose of this act is to revise the Charter of the Town of Emerald Isle and to consolidate herein certain acts concerning the property, affairs, and government of the Town. It is intended to continue without interruption those provisions of prior acts which are consolidated into this act, so that all rights and liabilities that have accrued are preserved and may be enforced.

Sec. 3. This act shall not be deemed to repeal, modify, or in any manner affect any of the following acts, portions of acts, or amendments thereto, whether or not such acts, portions of acts, or amendments are expressly set forth herein:

(a) Any acts concerning the property, affairs, or government of public schools in the Town of Emerald Isle.

(b) Any acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind.

Sec. 4. (a) The following acts or portions of acts, having served the purposes for which they were enacted, or having been consolidated into this act are hereby repealed:

Chapter	Laws
1291	Session Laws 1957
161	Session Laws 1967
299	Session Laws 1967
696	Session Laws 1971

Sec. 5. No provision of this act is intended, nor shall be construed, to affect in any way any rights or interests (whether public or private):

(a) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act;

(b) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken (including the adoption of ordinances or resolutions) pursuant to or within the scope of any provision of law repealed by this act.

Sec. 6. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(a) The repeal herein of any act repealing such law, or

(b) Any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

Sec. 7. (a) All existing ordinances and resolutions of the Town of Emerald Isle, and all existing rules or regulations of departments or agencies of the Town of Emerald Isle, not inconsistent with the provisions of this act, shall continue in full force and effect until repealed, modified or amended.

(b) No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act by or against the Town of Emerald Isle or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

Sec. 8. Severability. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 9. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 10. This act shall be effective upon its ratification.

In the General Assembly read three times and ratified, this the 16th day of May, 1973.

H. B. 792

CHAPTER 527

AN ACT TO AUTHORIZE THE EMPLOYMENT OF A SECRETARY FOR THE JACKSON COUNTY BOARD OF COMMISSIONERS.

The General Assembly of North Carolina enacts:

Section 1. The Chairman of the Board of Commissioners of Jackson County is hereby authorized to employ a secretary and to set a salary for the secretary.

Sec. 2. The secretary employed by the Chairman of the Board of Commissioners of Jackson County shall be paid from the county funds of Jackson County.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of May, 1973.

H. B. 1020

CHAPTER 528

AN ACT FOR THE PRIVATE PROTECTIVE SERVICES.

The General Assembly of North Carolina enacts:

Section 1. The General Statutes of North Carolina are hereby amended by adding a new Chapter to be designated "Chapter 74B" and to read as follows:

"Chapter 74B.

"Private Protective Services Act.

"§ 74B-1. *Policy.*—A Private Protective Services Board is hereby created to administer the licensing and set educational and training requirements for those persons providing private protective services as set out in this Chapter.

"§ 74B-2. *License required.*—No private person, firm or corporation shall engage in the private protective business within this State without having first obtained a license as provided in this Chapter.

An individual in possession of a valid private detective business license or private detective trainee permit issued prior to July 1, 1973, shall not be subject to forfeiture of such license, by virtue of this Chapter. Such license shall, however, remain subject to suspension, denial, or revocation in the same manner in which all other licenses issued pursuant to the Private Protective Services Act are subject to suspension, denial or revocation. A trainee permit may be issued to an applicant in the discretion of the Board in lieu of a license provided he works under the direct supervision of a licensee.

"§ 74B-3. *Definitions.*—(a) 'Private Protective Services' means and includes, but shall not be limited to, the following:

- (1) 'Armored car personnel' is any person who transports or offers to transport from one place or point to another place or point, currency, jewels, stocks, bonds, paintings, or other valuables with a high degree of security and certainty of delivery, on a private contractual basis and not as a full-time employee;
- (2) 'Central station alarm service' means any person who installs and/or services and/or responds to alarm signal devices or other electrical, mechanical, or electronic devices used to prevent or detect burglary, theft, or other losses, and who does so for consideration on a private contractual basis and not as a full-time employee;
- (3) 'Counterintelligence service' means any person who engages in business to discover, locate, or disengage, by either mechanical or electronic means, any eavesdropping equipment surreptitiously placed, and who does so for consideration on a private contractual basis and not as a full-time employee;
- (4) 'Courier' is any person who transports or offers to transport from one place or point to another place or point documents, papers, maps, stocks, bonds, checks, or other small items of value that require expeditious service, on a private contractual basis and not as a full-time employee;
- (5) 'Detection of deception examiner' is any person who uses any device or instrument, regardless of its name or design, for the purpose of detection

of deception. Provided, however, that such instrument that he may use is deemed by the administrator to be a reliable test of truthfulness;

(6) 'Guard and patrol' means any person in business as or accepting employment as a private patrol or guard service for consideration on a private contractual basis and not as a full-time employee;

(7) 'Guard dog service' means any person in the business of contracting with another person, firm, or corporation to place, lease, rent, or sell a trained dog for the purpose of protecting property, and who does so for consideration on a private contractual basis and not as a full-time employee;

(8) 'Private detective or private investigator' is any person who engages in the business of or accepts employment to furnish, agrees to make, or makes an investigation for the purpose of obtaining information with reference to:

a. Crime or wrongs done or threatened against the United States, or any state or territory of the United States;

b. The identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation, or character of any person;

c. The location, disposition, or recovery of lost or stolen property;

d. The cause or responsibility for fires, libels, losses, accidents, damages, or injuries to persons or to property; or

e. Securing evidence to be used before any court, board, officer, or investigation committee.

(9) 'Retail shopping service' means any individual, partnership, firm, or corporation engaged solely in providing services to retail merchants as to determining the honesty, integrity, performance, efficiency, and congeniality of any employee(s) of the retail business on a private contractual basis and not as a full-time employee.

(b) 'Private protective services' shall not mean:

(1) Insurance adjusters legally employed as such and who engage in no other investigative activities unconnected with adjustment or claims against an insurance company;

(2) An officer or employee of the United States, this State, or any political subdivision of either, while such officer or employee is engaged in the performance of his official duties within the course and scope of his employment with the United States, this State, or any political subdivision of either;

(3) A person engaged exclusively in the business of obtaining and furnishing information as to the financial rating of persons;

(4) An attorney at law licensed to practice in North Carolina and who is engaged primarily in such practice, and his agent, provided said agent is performing duties only in connection with his master's practice of law; or

(5) The legal owner of personal property which has been sold under a conditional sales agreement or a mortgage;

(6) A person engaged in the business of a consumer reporting agency, as defined by the Federal Fair Trade Reporting Act.

(7) Company police as defined in G.S. 74A.

(8) Railroad police as defined in G.S. 74A.

“§ 74B-4. *Private Protective Services Board established; members, terms, vacancies.*—(a) The Private Protective Services Board is hereby established and hereinafter called ‘the Board’ in the Department of Justice. The Board shall consist of five members who shall be the Director of the North Carolina State Bureau of Investigation, Chairman; one person who shall be selected by the Attorney General of North Carolina, and who shall not be a licensee under this Chapter, and shall serve a term of two years; one person appointed by the Governor to serve a term of four years, and who shall not be a licensee under this Chapter; two persons who shall be selected by the President pro tem of the Senate and the Speaker of the House, respectively, who are licensees under this Chapter.

The Chairman of the Board shall be the Director of the North Carolina State Bureau of Investigation. The Attorney General of North Carolina shall select someone who is not a licensee under this Chapter, to serve a term of two years beginning July 1, 1973. The Governor of North Carolina shall appoint one member who shall not be a licensee under this Chapter in North Carolina, to serve a term of four years beginning July 1, 1973. The President pro tem of the North Carolina Senate shall select someone who is a licensee under this Chapter to serve a term of two years beginning July 1, 1973. The Speaker of the North Carolina House of Representatives shall select someone who is a licensee under this Chapter to serve a term of four years beginning July 1, 1973.

(b) After the terms of the initial members of the Board or their successors to serve unexpired terms have expired, all members of the Board shall serve for a term of four years except the Director of the State Bureau of Investigation.

(c) Vacancies in the Board occurring for any reason shall be filled by the authority making the original appointment of the person causing the vacancy.

(d) All members of the Board, before assuming the duties of their office, shall take an oath for the faithful performance of their duties.

“§ 74B-5. *Compensation.*—Members of the Board who are State officers or employees shall receive no compensation for serving on the Board, but shall be reimbursed for their expenses in accordance with G.S. 138-6. Members of the Board who are full-time salaried public officers or employees other than State officers or employees shall receive no compensation for serving on the Board, but shall be reimbursed for their expenses in accordance with G.S. 138-5(b). All other members of the Board shall receive compensation and reimbursement in accordance with G.S. 138-5.

“§ 74B-6. *Vice-Chairman; meetings.*—(a) The Board shall select a vice-chairman and such other officers and committee chairmen from among its members, as it deems desirable, at the first regular meeting of the Board after its creation and at the first regular meeting after July 1 of each year thereafter.

(b) The Board shall meet at the call of the chairman or a majority of the members of the Board at such time, date, and location as may be decided upon by a majority of the Board.

“§ 74B-7. *Powers.*—(1) In addition to the powers conferred upon the Board elsewhere in this Chapter, the Board shall have the power to:

(a) Promulgate rules and regulations for the administration of this

Chapter including the authority to require the submission of reports and information by licensees under this Chapter.

- (b) Establish minimum education, experience and training standards for licensees under this Chapter.
- (c) Make such evaluations as may be necessary to determine if licensees under this Chapter are complying with the provisions of this Chapter.
- (d) Adopt and amend bylaws, consistent with law, for its internal management and control.
- (e) Approve individual applicants to be licensed or registered according to this Chapter.
- (f) Deny, suspend, or permanently revoke any license issued or to be issued under this Chapter to any applicant or licensee who fails to satisfy the requirements of this Chapter and/or the rules and regulations established by a majority of the Board; provided, however, the denial, suspension, or permanent revocation of such license be in accordance with Chapter 150 of the General Statutes of North Carolina.
- (g) Issue subpoenas to compel the attendance of witnesses and the production of pertinent books, accounts, records, and documents. The General Court of Justice, Superior Court Division, shall have the power to impose punishment as for contempt for acts occurring before the Private Protective Services Board which would constitute direct or indirect contempt if the acts occurred in an action pending in superior court.
- (h) The chairman of the Board or his representative designated to be a trial examiner, may conduct any hearing called by the Board for the purpose of approval, denial, suspension or revocation of a license under this Chapter, and may administer oaths and require testimony or evidence to be given under oath.

“§ 74B-8. *The position of administrator created.*—The position of administrator of the Private Protective Services is hereby created within the bureau. The director shall appoint a person, with the approval of the Attorney General, to fill this full-time position. His duties shall be to administer the directives contained herein and to actively police the private protective services industry to assure compliance with the law in all aspects.

“§ 74B-9. *Investigative powers.*—The Attorney General for the State of North Carolina shall have the power to investigate or cause to be investigated any complaints, allegations, or suspicions of wrongdoings involving individuals licensed, or to be licensed under this Chapter.

“§ 74B-10. *Applications for Private Protective Services.*—(a) Any person desiring to carry on a business in this State of a kind defined in this Chapter as a Private Protective Service, shall make a verified application in writing to the Board therefor.

(b) The application shall include:

- (1) The full name and business address of the applicant;
- (2) The name under which the applicant intends to do business;
- (3) A statement as to the general nature of the business in which the applicant intends to engage;
- (4) If an applicant is a person other than an individual, the full name and

address and verified signatures of each of its partners, officers and directors and its business manager, if any;

- (5) The names of not less than three unrelated and disinterested persons, as references of whom inquiry can be made as to the character, standing and reputation of the persons making the application. At least one of such persons must be a judge or solicitor of a court of record in the county of applicant's last-known residence and one such person must be a municipal chief of police or county sheriff in the county of the applicant's last-known residence; and
- (6) Such other information, evidence, statements or documents as may be required by the Board.

(c) Upon receipt of an application, the Board shall cause an investigation to be made in the course of which the applicant shall be required to show that he meets all the following requirements and qualifications hereby made prerequisites to the obtaining of a license:

- (1) That he is at least 18 years of age;
- (2) That he is a citizen of the United States;
- (3) That he is of good moral character and temperate habits;
- (4) That he has had at least three years' experience in private investigative work or as insurance adjuster, or in lieu thereof, at least two years' experience in an investigative capacity as a member of the Federal Bureau of Investigation, the State Bureau of Investigation, any municipal police department in this State or any county sheriff's department in this State, or comply with such other qualifications as the Board may by regulation fix.
- (5) That he meets the training and experience requirements as established by the Board;

(d) Following investigation by the State Bureau of Investigation, the Board may require the applicant to demonstrate his qualifications by an oral and/or written examination.

(e) Upon a finding that the application is in proper form, that the investigation has shown the applicant to possess all the necessary qualifications and requirements, and that the applicant has successfully completed any examination required by the Board, the Administrator shall submit to the Board his recommendation and approval of the issuance of a license and upon the final approval of the Board they shall issue to the applicant a license upon payment by the applicant of the license fee and the furnishing of the required surety bond, unless, following a hearing, the Board shall have found that the applicant has:

- (1) Committed some act which if committed by a licensee would be grounds for the suspension or revocation of a license under this Chapter;
- (2) Been convicted of a crime involving fraud;
- (3) A reputation for a bad moral character, intemperate habits, or a bad reputation for truth, honesty, and/or integrity;
- (4) Been convicted of a felony or some other crime involving moral turpitude or involving the illegal use, carrying or possession of a dangerous weapon;
- (5) Been refused a license under this Chapter or has had a license revoked;
- (6) Knowingly made any false statement in his application;
- (7) A reputation for willful negligence in payment of legally incurred debts.

“§ 74B-11. *Form of license; term; renewal; posting; not assignable.*—(a) The license when issued shall be in such form as may be determined by the Board and shall state:

- (1) The name of the licensee;
- (2) The name under which the licensee is to operate;
- (3) The number and date of the license.

(b) The license shall be issued for a term of two years and shall be renewable, unless the license shall have been previously revoked in accordance with the provisions of this Chapter. A trainee permit shall be issued for a term of one year and may be renewed yearly at the discretion of the Board. Following issuance, the license shall at all times be posted in a conspicuous place in the principal place of business of the licensee. A copy of the license shall at all times be posted in a conspicuous place at all branch offices of the licensee. A license issued under this Chapter is not assignable.

(c) The fee for a license shall be two hundred dollars (\$200.00). All fees collected pursuant to this section shall be expended, under the direction of the Board, for the purposes of defraying the expenses of administering this Chapter.

“§ 74B-12. *Bond required; form and approval; actions on bond; cancellation.*—(a) No license shall be issued under this Chapter unless the applicant files with the Board a surety bond executed by a surety company authorized to do business in this State or a cash bond in a sum of not less than five thousand dollars (\$5,000), conditioned upon the faithful and honest conduct of his business by such applicant. The bond shall be taken in the name of the people of the State of North Carolina and every person injured by willful, malicious or wrongful act of the principal thereof may bring an action on the bond in his or her name to recover damages suffered by reason of such willful, malicious or wrongful act; provided, however, that the aggregate liability of the surety for all breaches of the condition of the bond shall, in no event, exceed the sum of said bond. The surety on such bond shall have a right to cancel such bond upon giving 30 days' notice to the Board, provided, however, that such cancellation shall not affect any liability on the bond which accrued prior thereto. The bond shall be approved by the Board as to form, execution and sufficiency of the sureties thereon. Failure to maintain for the bond required by this section shall work an automatic forfeiture of the license provided for by this Chapter.

“§ 74B-13. *Registration of persons employed.*—(a) All persons licensed in accordance with this Chapter shall within 10 days of the beginning of employment of any employee, furnish the Board with two sets of classifiable fingerprints on standard FBI applicant cards, one recent photograph of acceptable quality and statements of any criminal record obtained from the county sheriff, chief of police, and clerk of superior court in each county of employee's residence within the previous 24 months. Fingerprint cards and criminal record forms shall be furnished by the Board at the request of the licensee.

(b) If any person employed as a guard by any guard and patrol agency or any retail shopping service is considered by the Board to be unsuitable by virtue of past criminal convictions, upon notice to the agency by the Board, the agency shall immediately terminate said individual from employment.

“§ 74B-14. *Suspension or revocation of licenses; appeal.*—(a) The Board may, after hearing, suspend or permanently revoke a license issued under this Chapter

if it is determined that the licensee or any officer, director, partner, manager, or employee thereof has:

- (1) Made any false statement or given any false information in connection with any application for a license or renewal or reinstatement of a license;
- (2) Violated any provision of this Chapter;
- (3) Violated any regulation promulgated by the Board pursuant to the authority contained in this Chapter;
- (4) Been convicted of a felony or any crime involving moral turpitude or any other crime involving the illegal use, carrying or possession of a dangerous weapon;
- (5) Impersonated or permitted or aided and abetted any other person to impersonate a law enforcement officer or employee of the United States or of this State or any political subdivision thereof;
- (6) Engaged in or permitted any employee to engage in the Private Protective Services business when not lawfully in possession of a valid license issued under the provisions of this Chapter;
- (7) Willfully failed or refused to render to a client service or a report as agreed between the parties and for which compensation has already been paid or tendered in accordance with the agreement of the parties;
- (8) Committed an unlawful breaking or entering, assault, battery or kidnapping;
- (9) Knowingly violated or advised, encouraged or assisted the violation of any court order or injunction in the course of business as a licensee;
- (10) Committed any other act which is a ground for denial of an application for license under this Chapter;
- (11) Undertaken to give legal advice or counsel or to in any way represent that he is representing any attorney or is appearing or will appear in any legal proceedings or to issue, deliver or utter any simulation of process of any nature which might lead a person or persons to believe that such simulation, written, printed or typed, may be a summons, warrant, writ or court process or any pleading in any court proceeding.

(b) The revocation or suspension of a license as provided in subsection (a) shall be in writing, signed by the Administrator, stating the grounds upon which revocation order is based, and the aggrieved person shall have the right to appeal from such an order as provided in Chapter 150 of the General Statutes except that the appeal shall be filed in Superior Court of Wake County.

“§ 74B-15. *Prohibited acts.*—(a) Any licensee or officer, director, partner or manager of a licensee may divulge to any law enforcement officer or solicitor or his representative any information he may require as to any criminal offense but he shall not divulge to any other person, except as he be required by law, any information acquired by him except at the direction of the employee or client for whom the information was obtained.

(b) No licensee or officer, director, partner, manager or employee of a licensee shall knowingly make any false report to this employer or client for whom information was being obtained.

(c) No licensee shall conduct a detective business under a fictitious name other than the name under which a license was obtained under the provisions of this Chapter.

(d) Every advertisement by a licensee soliciting or advertising for business shall contain his name and address as they appear in the records of the Board and in which name the license was issued.

(e) Every licensee shall file in writing with the Board the address of each of his branch offices, if any, within 10 days after the establishment, closing or changing of the location of any branch office. The operator or manager of any branch office shall be a licensed detective.

(f) It shall be unlawful for anyone not licensed and/or registered under this Chapter to advertise or profess to be a licensee; to advertise or profess to perform services for which a license is required; to perform, or aid and abet any other individual to perform, services for which a license or registration under this Chapter is required, when, in fact, the individual is not licensed and/or registered in accordance with this Chapter.

(g) Any individual who holds a private detective, guard and patrolman, and/or polygraph examiner's license, or any other individual licensed under this Chapter shall at no time be concurrently employed as or perform duties as a sworn law enforcement officer of the United States or this State or any of its political subdivisions.

"§ 74B-16. *Penal provision.*—Any person who violates any provision of this Chapter shall be guilty of a misdemeanor and shall upon conviction be fined or imprisoned or both in the discretion of the court."

Sec. 2. All laws inconsistent with this act are hereby repealed.

Sec. 3. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 16th day of May, 1973.

H. B. 1100

CHAPTER 529

AN ACT TO AMEND G.S. 54-21.4 REGARDING LOANS BY SAVINGS AND LOAN INSTITUTIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 54-21.4(a)(1), as the same appears in the 1971 Cumulative Supplement to Volume 2B of the General Statutes of North Carolina, is rewritten as follows:

"(1) Any loan not exceeding seven thousand five hundred dollars (\$7,500) which is made for the improvement, alteration, repairing and equipping real property, subject to the rules and regulations governing such loans as adopted by the Administrator of the Savings and Loan Division; provided, however, that the combined total amount of the outstanding loans made under this section and the amount of the outstanding loans made on nonresidential real property as the term 'nonresidential real property loan' is defined in the United States Code Section 7701(a)(19) shall not exceed nineteen percent (19%) of the total amount of the assets of any savings and loan association making loans under the provisions of this section."

Sec. 2. This act shall be in full force and effect upon its ratification.

In the General Assembly read three times and ratified, this the 16th day of May, 1973.

H. B. 1325

CHAPTER 530

AN ACT TO EXTEND THE LIFE OF THE DURHAM CITY-COUNTY CHARTER COMMISSION FROM AUGUST 15, 1973 TO MARCH 15, 1974.

The General Assembly of North Carolina enacts:

Section 1. Section 14 of Chapter 600 of the 1971 Session Laws is amended by deleting the date "August 15, 1973" and inserting in lieu thereof "March 15, 1974".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of May, 1973.

H. B. 292

CHAPTER 531

AN ACT TO REQUIRE HEAD AND REAR LAMPS ON MOTORCYCLES TO BE LIGHTED DURING OPERATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-129(c) is hereby amended by adding at the end thereof the following: "The head lamps on a motorcycle shall be lighted at all times while the motorcycle is in operation on highways or public vehicular areas."

Sec. 2. G.S. 20-129(d) is hereby amended by adding at the end thereof a paragraph as follows: "The rear lamps of a motorcycle shall be lighted at all times while the motorcycle is in operation on highways or public vehicular areas."

Sec. 3. This act shall become effective on October 1, 1973.

In the General Assembly read three times and ratified, this the 16th day of May, 1973.

S. B. 936

CHAPTER 532

AN ACT TO PROVIDE FOR NONPARTISAN ELECTION AND RUN-OFF ELECTION IN THE TOWN OF FARMVILLE.

The General Assembly of North Carolina enacts:

Section 1. Beginning with the municipal elections to be held in the Town of Farmville in 1973, the elections for municipal officers shall be the nonpartisan election and run-off election as provided in Articles 23 and 24 of Chapter 163 of the General Statutes, and said elections shall be held and conducted as provided in Articles 23 and 24 of Chapter 163 of the General Statutes.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of May, 1973.

H. B. 50

CHAPTER 533

AN ACT TO MAKE APPROPRIATIONS FOR CURRENT OPERATIONS OF THE STATE DEPARTMENTS, INSTITUTIONS, AND AGENCIES, AND FOR OTHER PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. The appropriations made herein are intended to be for maximum amounts necessary to provide the services and accomplish the purposes described in The Budget. It is the intent of the General Assembly that savings shall be effected where the total amounts appropriated shall not be required to perform these services and accomplish these purposes, and that, except as allowed by the Executive Budget Act, or as hereinafter provided, such savings shall be reverted to the appropriate fund at the end of the fiscal year.

GENERAL FUND

Sec. 2. Appropriations from the General Fund of the State for the maintenance of the State departments, institutions, and agencies, and for other purposes as enumerated are hereby made for the fiscal year ending June 30, 1974, according to the following schedule:

	1973-74
I. GENERAL ASSEMBLY	
General Assembly	\$ 3,386,756
II. JUDICIAL	
Judicial Department	\$ 34,571,550
Judicial Council	1,276
Subtotal - Judicial	\$ 34,572,826
III. GENERAL GOVERNMENT	
The Governor's Office	\$ 626,132
The Lieutenant Governor	102,190
Department of Administration	9,455,104
Department of Administration -	
Subsidiary Programs	2,758,384
Department of Secretary of State	454,930
Department of State Auditor	3,728,336
Department of State Treasurer	1,149,015
Department of Justice:	
1. Attorney General	1,807,590
2. State Bureau of Investigation	3,943,636
3. Police Information Network	1,161,376
4. General Statutes Commission	13,230
Department of Revenue	12,831,790
Pensions - Widows of Governors	9,000
Courts Commission	10,000
Commission on Indian Affairs	92,859
Subtotal - General Government	\$ 38,143,572
IV. PUBLIC SAFETY AND REGULATION	
Department of Military and	
Veterans' Affairs	\$ 2,301,583
Department of Commerce	4,011,730
Insurance Department:	
1. Insurance Department	2,116,483

2. State Property Fire Insurance Fund	250,000
3. Firemen's Relief Fund	1,750
4. Building Code Council	2,600
Department of Labor	<u>1,601,583</u>
Subtotal - Public Safety and Regulation	\$ 10,285,729

V. CORRECTION

Department of Social Rehabilitation and Control:	
1. Office of Secretary	\$ 1,684,458
2. Office of Youth Development:	
a. General Administration	222,823
b. Stonewall Jackson School	1,175,879
c. Samarkand Manor	1,183,125
d. Cameron Morrison School	1,280,895
e. Richard T. Fountain School	1,014,214
f. Dobbs School for Girls	834,436
g. Samuel Leonard School	954,435
h. Juvenile Evaluation Center	1,476,374
i. C. A. Dillon School	649,898
3. Office of Correction	37,566,262
4. Office of Probation	4,539,317
5. Office of Paroles	<u>1,986,285</u>
Subtotal - Department of Social Rehabilitation and Control	\$ 54,568,401
The Governor's Office - Fugitives from Justice	<u>6,500</u>
Subtotal - Correction	\$ 54,574,901

VI. EDUCATION

Department of Public Education:	
1. Department of Public Instruction	\$ 3,278,479
2. Nine Months School Fund	648,377,625
3. State Board of Education	2,207,327
4. Occupational Education	31,497,700
5. Purchase of School Buses	13,148,452
6. Program of Education by Television	222,743
7. Advancement School	838,430
8. School Food Service	2,326,541
9. Professional Improvement of Teachers	645,270
10. Planning, Research and Development	388,654
11. Evaluation & Assessment	346,180
12. Vocational Textile School	211,238
13. Department of Community Colleges	83,638,766
14. Department of Community Colleges - Equipment	14,219,595

The University of North Carolina -

Board of Governors:

1. General Administration	2,293,384
2. Institutional Programs and Facilities:	
a. Institutional Programs and Facilities	29,495,008
b. Academic Salary Increases	6,335,206
3. Related Educational Programs	6,294,460
4. University of North Carolina at Chapel Hill:	
a. Academic Affairs	26,466,634
b. Division of Health Affairs	16,484,576
5. North Carolina State University at Raleigh:	
a. Academic	23,530,126
b. Industrial Extension Service	505,340
6. University of North Carolina at Greensboro	9,447,808
7. University of North Carolina at Charlotte	6,699,927
8. University of North Carolina at Asheville	1,647,445
9. University of North Carolina at Wilmington	2,743,995
10. East Carolina University	11,580,733
11. North Carolina Agricultural and Technical State University	4,782,695
12. Western Carolina University	6,192,138
13. Appalachian State University	7,869,620
14. Pembroke State University	2,048,698
15. Winston-Salem State University	2,019,085
16. Elizabeth City State University	1,843,129
17. Fayetteville State University	1,889,932
18. North Carolina Central University	4,339,567
19. North Carolina School of the Arts	1,275,953
Department of Administration - Reserve for Educational Benefits - Children of Veterans	1,200,000
Department of Art, Culture and History:	
1. Department of Art, Culture and History	7,682,523
2. State Art Society	8,000
3. North Carolina Symphony Society, Inc.	420,471
Historical - Educational Grants-in-aid	242,600
Subtotal - Education	\$986,686,053

VII. TRANSPORTATION

Department of Transportation
and Highway Safety:

1. State Ports Authority	\$ 272,096
2. Office of Motor Vehicles - Automobile Financial Responsibility Program	<u>1,018,491</u>
Subtotal - Transportation	\$ 1,290,587

VIII. HEALTH, WELFARE AND REHABILITATION

Department of Human Resources:

1. Administrative Support Services:	
a. Administration	\$ 213,072
b. Miscellaneous Programs	127,938
c. Employment of the Handicapped	44,666
d. Council on Developmental Disabilities	436,770
2. Office of Health Services:	
a. Board of Health	15,417,074
3. Office of Mental Health Services:	
a. Office of Mental Health	16,710,373
b. Alcoholic Rehabilitation Center - Black Mountain	805,977
c. Alcoholic Rehabilitation Center - Butner	806,566
d. Walter B. Jones Alcoholic Rehabilitation Center - Greenville	789,867
e. Dorothea Dix Hospital	12,547,095
f. Broughton Hospital	9,879,806
g. Western Carolina Center	7,147,473
h. Cherry Hospital	11,286,815
i. O'Berry Center	6,482,492
j. John Umstead Hospital	8,441,058
k. Murdoch Center	8,611,726
l. Caswell Center	8,466,729
m. Wright School	301,830
4. Office of Social Services:	
a. Office of Social Services	32,544,405
b. Child Welfare and Day Care Services	1,844,219
c. Medical Assistance Programs	36,997,486
5. Office of Rehabilitation Services:	
a. Commission for the Blind	3,459,236
b. Vocational Rehabilitation	4,517,880
6. Office of Medical Care and Institutional Services:	
a. Medical Care Commission: Administration	296,961

Student Loan Fund - Medical Education	733,743
b. North Carolina Orthopedic Hospital	1,013,172
c. North Carolina Cerebral Palsy Hospital	555,009
d. North Carolina Sanatorium System:	
General Administration	116,857
North Carolina Sanatorium	2,176,625
Western North Carolina Sanatorium	2,128,566
Eastern North Carolina Sanatorium	2,525,853
Gravely Sanatorium	1,180,105
e. Schools for the Blind and the Deaf:	
North Carolina School for the Deaf	2,805,047
Eastern North Carolina School for the Deaf	1,691,326
Central North Carolina School for the Deaf	749,123
Governor Morehead School	2,046,539
f. Confederate Women's Home	94,494
Department of Administration - Child Day Care Licensing Board	148,765
Child-Caring Institutions	625,907
Children's Home Society	25,000
The University of North Carolina - Memorial Hospital	11,682,705
North Carolina Cancer Institute	26,000
Orthopedic Hospital and Rehabilitation Center	<u>375,832</u>
Subtotal - Health, Welfare and Rehabilitation	\$218,878,182
IX. RESOURCE DEVELOPMENT AND PRESERVATION	
Department of Natural and Economic Resources	\$ 20,988,772
Department of Administration - North Carolina Zoological Authority	<u>91,931</u>
Subtotal - Resource Development and Preservation	\$ 21,080,703
X. AGRICULTURE	
Department of Agriculture	\$ 7,715,282
The University of North Carolina: Agricultural Experiment Station - North Carolina State University at Raleigh	8,155,460

Cooperative Agricultural Extension

Service - North Carolina State

University at Raleigh

Subtotal - Agriculture

6,613,466

\$ 22,484,208

XI. DEBT SERVICE

Interest on Bonds

\$ 16,522,042

Redemption of Bonds

31,625,000

Subtotal - Debt Service

\$ 48,147,042

XII. RESERVES

Contingency and Emergency:

To provide for contingency and emergency expenditures for any purpose authorized by law for which no specific appropriation has been made, or for which inadvertently an insufficient appropriation has been made. Allotments are to be made from this appropriation under the provisions of G.S. 143-12, or such other statutes as may be applicable.

\$ 2,000,000

Salary Increases of State Employees

29,057,248

Salary Adjustments of State

Employees

4,200,000

Reserve for Social Security

Increases

4,128,331

Reserve for Unemployment

Compensation

100,000

Teachers' and State Employees'

Retirement System:

Reserve for Hospitalization -
Medical Insurance and Disability

Salary Continuation Benefits

20,903,448

Reserve for Travel

300,000

Reserve for Longevity,

SPA Employees

1,811,115

Subtotal - Reserves

\$ 62,500,142

TOTAL GENERAL FUND

\$1,502,030,701

HIGHWAY FUND

Sec. 3. Appropriations from the Highway Fund of the State for the expense of collecting revenues, for the service of the highway debt, and for the maintenance of the highway activities, are hereby made for the fiscal year ending June 30, 1974, according to the following schedule:

IV. PUBLIC SAFETY AND REGULATION

Transportation Inspection:

Department of Commerce

\$ 302,581

VI. EDUCATION

Driver Training and Safety

Education

\$ 3,119,695

VII. TRANSPORTATION

Department of Transportation

and Highway Safety:

1. Office of Secretary	\$ 220,000
2. Office of Motor Vehicles	34,332,574
3. Governor's Highway Safety Program	2,137,963
4. State Highway Commission:	
a. Merit Salary Increments	3,647,960
b. Reserve for Contingencies	500,000
c. General Administration	4,593,941
d. Engineering Administration and Supervision	10,403,112
e. State Maintenance and Construction:	
(1) Primary System	96,178,138
(2) Secondary System	69,609,938
(3) Urban System	26,814,054
(4) Public Service Roads	1,635,451
f. State Funds to Match Federal Aid Highway Planning Survey and Highway Planning Research	832,828
g. State Funds to Match Federal Aid Construction	32,815,929
h. State Aid to Municipalities	28,500,000
i. Employer's Contribution - Retirement	7,842,332
j. Employer's Contribution - Social Security	5,321,690
Subtotal - Highway	<u>\$288,695,373</u>
Subtotal - Transportation	\$325,385,910

X. AGRICULTURE

Department of Agriculture:

Gasoline and Oil Inspection

Service \$ 535,865

XI. DEBT SERVICE

Bond Fund Act of 1965 - Interest

and Redemption \$ 25,083,000

XII. RESERVES

Salary Adjustments of State

Employees \$ 2,095,944

Salary Increases of State

Employees 13,156,327

Longevity Pay—

Highway Fund Employees 850,000

Reserve for Hospitalization -

Medical Insurance and Disability

Salary Continuation Benefits -

Highway Fund Employees 2,751,432

Reserve for Social Security

Increases

447,493

Reserve for Travel—

Highway Fund Employees

50,000

Subtotal - Reserves

\$ 19,351,196

TOTAL HIGHWAY FUND

\$373,778,247

Transfers and changes may be made in the Highway Fund from Salary Increases, Salary Adjustments, Longevity Pay, Reserve for Social Security, and Hospitalization-Medical and Disability Insurance Benefits to other appropriations in the Highway Fund by authorization of the Director of the Budget. Transfers and changes may be made from the Reserve for Contingencies to other appropriations in the Highway Fund by authorization of the Governor and Council of State. Transfers may be made by authorization of the Director of the Budget from Merit Salary Increments to other appropriations from the Highway Fund for the State Highway Commission. Transfers may be made by authorization of the Director of the Budget from Title VII - 4.c. and d. to Title VII - 4.e(1), e(2), e(3), e(4), 4.f. and 4.g. Transfers may be made by authorization of the Director of the Budget from Title VII - 4.e(1), e(3), e(4), 4.f., and 4.g. to Title VII - 4.c. and 4.d., provided that the original appropriation from which the transfer is made shall not be reduced by more than 10%, and provided further that transfers to Title VII - 4.c. and d. for the purpose of providing new personnel positions, shall be approved by the Advisory Budget Commission. Transfers of appropriations within subparagraphs 4.e.(1)(2)(3)(4), f, and g, of Title VII shall be governed by the provisions of G.S. 136-17(c).

The Controller of the Department of Transportation and Highway Safety is hereby directed to allocate at the beginning of each fiscal year from the appropriation "State Maintenance and Construction" herein made to the State Highway Commission, sufficient funds to eliminate all overdrafts on State maintenance and construction projects, and such allocations may not be diverted to other purposes.

In the event the rate of Federal matching under the Federal Aid Construction program is reduced effective during any part of fiscal year 1973-74, the Board of Transportation may transfer to Title VII-4-g, State Funds to Match Federal Aid Construction, sufficient funds from Title VII-4-e(1) and e(3) to provide adequate matching for Federal Aid Construction funds.

Sec. 4. There is hereby appropriated out of funds available in the various Special Funds sufficient amounts to carry on required activities included under each fund's operations subject to provisions of the Executive Budget Act, Chapter 143, Article 1, General Statutes of North Carolina.

GENERAL PROVISIONS

Sec. 5. All insurance and all official fidelity and surety bonds authorized for the several departments, institutions, and agencies shall be effected and placed by the Insurance Department, and the cost of such placement shall be paid by the department, institution, or agency involved upon bills rendered to and approved by the Insurance Commissioner.

Sec. 6. The Director of the Budget is authorized and empowered to transfer, as between the offices, institutions or agencies under a principal department, any appropriations made herein to any of them, when in his opinion it shall be deemed to be in the best interest of the State.

SPECIAL PROVISIONS

Sec. 7. Services herein provided for under Title XIX of the Social Security Act (Medicaid) are intended for both the categorically needy and the medically needy. Funds appropriated for such services are to be expended in accordance with the following schedule of services and payment rates.

<u>Services</u>	<u>Payment Rate</u>
In-Patient Hospital	Allowable costs
Out-Patient Hospital	Pay 90% of allowable costs
State Mental and TB Hospitals	Allowable costs (non-federal share to be funded 100% by the State)
Nursing Homes	Pay allowable costs up to \$18.50 per day with non-federal share paid 85% by State and 15% by counties and counties to pay all non-federal cost above \$18.50 as may be authorized by the General Assembly
Drugs	Pay \$2.00 service fee per prescription plus actual drug cost
Physicians	Pay 90% of allowable usual and customary charges
Chiropractors	Pay 90% of allowable usual and customary charges
Dental	Pay 90% of allowable usual and customary charges
Home Health	Allowable costs
Optical Services	Pay 90% of allowable usual and customary charges
Medicare Buy-In	Actual cost
Public Health Clinics	Allowable costs
Ambulance Services	Allowable costs
Pre-21 Screening	Allowable costs
Hearing Aids	Allowable costs
Mental Health Clinics	Allowable costs (Federal portion only; non-federal share covered by State/local operating funds)

It is the intent of the General Assembly that the State will pay eighty-five percent (85%) and the counties will pay fifteen percent (15%) of the non-federal costs of applicable services herein listed except as specified otherwise.

It is the further intent of this General Assembly that, as allowed by federal regulations, recipient co-payments shall be implemented for services under Medicaid as follows:

Service	Eligibility		Co-Payment for Each Occasion of Service
	Categorically Needy	Medically Needy	
In-Patient Hospital		x	\$ 2.00
Out-Patient Hospital		x	2.00
Physicians		x	2.00
Drugs	x	x	1.00
Dental	x	x	2.00
Chiropractors	x	x	2.00
Optical Services	x	x	3.00
Public Health Clinics	x	x	1.00
Mental Health Clinics	x	x	2.00

Sec. 8. Providers of medical services under the various State programs offering medical care to citizens of the State shall be reimbursed at the same rates as those provided under the Medicaid program. This provision relates specifically to the Crippled Children and Maternal and Child Health programs and the Chronic Disease Section of the State Board of Health, services under Vocational Rehabilitation and the Commission for the Blind, and the school health program under the Department of Public Instruction. Income eligibility requirements for services shall be those requirements existing as of January 1, 1973. Any changes must be approved by the Advisory Budget Commission.

Sec. 9. Appropriations made herein to the State Board of Health are intended to provide for the purchase of medical services for a full twelve month period for eligible recipients under certain programs; namely, Cancer, Crippled Children, and Maternal and Child Health. If during the fiscal year, expenditures in these programs indicate that the funds may be insufficient for a full twelve months, the State Board of Health shall adjust the eligibility requirements for participation in these programs to the end that the appropriations are sufficient.

Sec. 10. Appropriations made herein to the Department of Mental Health for Community Mental Health Programs, as authorized by G.S. 122-35.1, are intended to be for both out-patient and in-patient services.

Sec. 11. It is the intent and purpose of this act that funds appropriated herein to replace federal receipts expected to be lost shall be expended only for the specific program or activity intended. Should federal funds which were not expected to be available and which were replaced by appropriations actually be received, the appropriations so made shall revert.

Sec. 12. It is the intent of this General Assembly that the Richard T. Fountain School at Rocky Mount shall be converted from its present custodial function to a reception and diagnostic center for students admitted to the Youth Development System from central and eastern North Carolina. Should sufficient reductions in the population of the schools be effected, the Department of Social Rehabilitation and Control shall have the authority, subject to approval of the Advisory Budget Commission, to close one or more of the remaining schools, and to redirect the resources to other programs within the Department.

Sec. 13. It is the intention of this act that it shall be the announced policy of the Department of Community Colleges that, as to capital improvement projects, no construction contracts may be let until it has been clearly established that funds are available for the related permanent equipment.

Funds appropriated herein to the State Department of Public Education, Department of Community Colleges, to purchase equipment and library books for the community colleges institutions shall be permanent appropriations, and unexpended portions of these appropriations shall not revert to the General Fund at the end of the fiscal year.

Sec. 14. Funds appropriated herein to the State Department of Public Education, Department of Community Colleges, for allocation to the institutions comprising the Community College System as operating expenses shall not be used to support general adult education extension courses. The financing of such courses by any institution shall be in accordance with the State Board of Education's Policy #3.0222 - Extension - self-supported, which reads:

"An institution in the Community College System shall have the authority to sponsor self-supporting programs, seminars, cultural exhibits, and the like, as differentiated from normal organized class instruction, deposit income, if any, to a local account, and pay all expenses from such local account. (6-2-66) However, contact hours produced from such activities shall *not* be counted for inclusion when computing FTE for use in budget-funding formulas at the State level. (2-1-68) Institutions may also offer self-supporting organized class instruction in recreational or avocational areas by making special request to the Department of Community Colleges, showing income to offset expenditures, and justifying same. Such income will be State funds, and deposited accordingly. Expenditures will be made from an allocation of State funds made to the institution on the basis of the increased receipts shown in the application. (6-2-66)."

Sec. 15. Funds appropriated herein to the State Department of Public Education, Department of Community Colleges, for operating costs of the community colleges and technical institutes are intended to support student enrollment at the per student rate provided by the formula adopted by the State Board of Education for 1972-73 for allocation of these operating funds and shall not be used to increase the formula by which the fund allocations will be determined.

Sec. 16. Funds appropriated herein to the State Department of Public Education for the purchase of Elementary Basic Textbooks shall be permanent appropriations, and unexpended portions of these appropriations shall not revert to the General Fund at the end of the fiscal year.

Sec. 17. Funds appropriated herein to the State Board of Education to provide financial assistance to hospital programs of nursing education leading to diplomas in nursing which are fully accredited by the North Carolina Board of Nursing and operated under the authority of a public or nonprofit hospital licensed by the North Carolina Medical Care Commission shall be distributed, upon application for financial assistance, on the basis of eight hundred fifty dollars (\$850.00) for each student duly enrolled in the program as of December 1 of the preceding year and on condition that accreditation is maintained. The State Board of Education shall make such rules and regulations as are necessary to ensure that this financial assistance is used directly for faculty and instructional needs of diploma nursing programs.

Sec. 18. Funds appropriated herein to the Board of Governors of the University of North Carolina for continuation of financial assistance to the medical schools of Duke University and Wake Forest University shall be

disbursed on certification of the respective school of medicine showing the number of North Carolina residents enrolled as first, second, third and fourth year students in the school as of November 1, 1973. To the extent of the appropriation made herein, disbursement shall be made to the school in the amount of five thousand dollars (\$5,000) for each such student, five hundred dollars (\$500.00) of which shall be placed by the school in a fund to be used to provide for tuition remission to financially needy North Carolina students who are enrolled in the school, provided that no individual student shall be awarded assistance from this fund in excess of one thousand five hundred dollars (\$1,500) per year. The Board of Governors shall prescribe regulations consistent with acts of the General Assembly for determining which students are residents of North Carolina. The Board shall also make such regulations as it may deem desirable to ensure that these funds are used directly for instruction in the medical programs of the schools and not for religious or other non-public purposes. The Board shall encourage the two schools to orient students toward personal health care in North Carolina giving special emphasis to family and community medicine.

Sec. 19. Funds appropriated in this act to the Board of Governors of the University of North Carolina for aid to private colleges shall be disbursed in accordance with the provisions of G.S. 116-19, 116-21, and 166-22. These funds are intended to provide up to two hundred dollars (\$200.00) per full-time equivalent North Carolina student enrolled at a private institution as of October 1, 1973. These funds shall not be used for the provision of G.S. 116-20 and any funds not required to fulfill the intent of the General Assembly shall revert to the General Fund as of June 30, 1974.

Sec. 20. Appropriations made herein to the Board of Governors of the University of North Carolina - Institutional Programs (Code 18106) include three million five hundred thousand dollars (\$3,500,000) in a Reserve for Possible Loss of Federal Funds. It is the intent of the General Assembly that these funds be utilized only for existing programs that suffer a loss in federal funding, and that transfers or allocations of funds from this Reserve may not be made until approved by the Board of Governors, the Advisory Budget Commission, and the Standing Interim Joint Appropriations Committee. Funds remaining in this Reserve as of June 30, 1974, shall revert to the General Fund.

Sec. 21. All appropriations for grants-in-aid to private non-profit organizations in the areas of history, art and culture shall be placed in the State fund entitled Historical - Educational Grants-in-Aid. This fund is assigned to the Department of Art, Culture and History for allocation of the funds as directed by the Director of the Budget.

The appropriation of Highlands Biological Station shall be transferred on July 1, 1973, from the fund Historical - Educational Grants-in-Aid to the Board of Governors of the University of North Carolina.

It is the intent of the General Assembly that the designated State agencies and institutions make regular and timely reviews, studies and recommendations relating the actual operations of the recipients of grants-in-aid to their needs for and use of State funds. The designated State agencies and institutions may request operating statements, audit reports and other information they deem appropriate from the grantees. Appropriation requests for all non-State organizations in these areas for the fiscal year 1974-75 shall be transmitted

through the designated agencies and institutions for their recommendations to the Governor and the Advisory Budget Commission.

Sec. 22. Funds appropriated in Section 2 of this act herein to the Office of Archives and History of the Department of Art, Culture and History, for grants-in-aid to assist in the restoration of significant historic sites owned by private non-profit organizations shall be expended only in accordance with Sections 121-7.5 and 143-31.2 of the General Statutes. All expenditures of State appropriated funds are contingent upon matching dollar-for-dollar by non-State funds raised by the designated recipient organizations for the same purposes on or after July 1, 1973.

The sites, amounts of State appropriations, and organizations are:

<u>Site</u>	<u>Appropriation</u>	<u>Organization</u>
John Wheeler House	\$35,000	Historic Murfreesboro Commission
Old Burying Ground	15,000	Beaufort Historical Association
Richmond Hill Law School	20,000	Richmond Hill Law School Association
Historic Hope	7,000	Historic Hope Foundation
Hezekiah Alexander Homeplace	32,500	Hezekiah Alexander Foundation, Inc.
Fort Defiance	35,000	Fort Defiance, Inc.
Joel Lane House	20,000	Joel Lane House, Inc.
Old Wilkes County Jail	11,000	Old Wilkes, Inc.
Newbold-White House	25,000	Perquimans County Restoration Association
Wright Tavern	15,000	Rockingham County Historical Society, Inc.
Barker and Cupola Houses	9,000	Historic Edenton, Inc.
Bernard Franklin House	30,000	Surry County Historical Society

Sec. 23. It is the intent of this act that expenditures of funds appropriated herein as reserves shall not be scheduled in amounts or in such manner as to create an increased annual obligation in the succeeding year, except as provided by statute.

Sec. 24. Subject to a recommendation of the Director of the Budget, funds not to exceed one hundred fifty thousand dollars (\$150,000) for the fiscal year 1973-74 may be allotted out of the Contingency and Emergency Appropriation for use by the State Department of Agriculture, North Carolina Agricultural Experiment Station, and the U. S. Department of Agriculture, for a witch weed control program and/or for payment of hog cholera indemnities.

Sec. 25. Appropriations are provided in Section 2 of this act for required employer contributions to the Teachers' and State Employees' Retirement Fund, the Law Enforcement Officers' Benefit and Retirement Fund, and the Social Security Agency, for employees whose salaries are paid from the General Fund; in Section 3 of this act, for required employer contributions for employees whose salaries are paid from the Highway Fund; and in Section 4 of this act, for required employer contributions for employees whose salaries are paid from Special Funds. For employees whose salaries are paid from department, office, institution, or agency receipts (other than gifts, including foundation funds), the

employer requirement shall be paid from the same source as the source of the employee's salary. In those instances in which an employee's salary is paid in part from the General Fund and in part from department, office, institution, or agency receipts (other than gifts, including foundation funds), required employer contributions shall be paid from the General Fund only to the extent of the proportionate part paid from the General Fund in support of the salary of such employee, and the remainder of the employer's requirement shall be paid from the same source which supplies the remainder of such employee's salary. The requirements of this section as to source of payment are also applicable to payments on behalf of employees for Hospital-Medical Insurance, Disability Salary Continuation Benefits, Longevity, and Unemployment Insurance, except that where the employee's salary is paid in whole or in part from gifts, including foundations, the source of such gifts must bear its proportional share of the employer's requirement for these purposes.

Notwithstanding the restrictions in this section, the Director of the Budget is authorized and empowered to promulgate special rules and regulations to apply to employer requirements with respect to employees whose salaries are paid from inter-agency receipts, where payments for the services of such employees originate from State appropriations, to the end that the effective purchasing power of such appropriations shall not be materially reduced as a result of payment of the employer's requirement.

Any questions as to the applicability of the provisions of this section shall be resolved by the Director of the Budget and the Advisory Budget Commission.

SALARIES AND WAGES

Sec. 26. The Director of the Budget is authorized and empowered to transfer from the appropriations in Section 2 of this act for Salary Increases of State Employees, such amounts, including the employer's retirement and social security contributions, as may be required to increase salaries in effect on June 30, 1973, for all permanent employees subject to the Personnel Act whose salaries are paid from the General Fund, and from the appropriations in Section 3 of this act for Salary Increases of State Employees, such amounts, including the employee's retirement and social security contributions, as may be required to increase salaries in effect on June 30, 1973, for all permanent employees subject to the Personnel Act whose salaries are paid from the Highway Fund, by an average of five percent (5%) commencing July 1, 1973, and for those employees whose salaries as of June 30, 1973, are two dollars and sixty-three cents (\$2.63) or less per hour by an additional average of five percent (5%), rounded to conform to the steps in such salary ranges as may be adopted by the State Personnel Board. For an employee whose salary in effect on June 30, 1973, is not equal to a specific pay rate within the present salary schedule, the annual increase will be the amount applicable to the next lower pay rate.

The Director of the Budget is further authorized to transfer any unexpended balances which may remain, after the provisions of this section have been fully met, from the appropriations for Salary Increases of State Employees to the appropriations for Salary Adjustments of State Employees.

The Director of the Budget is authorized and empowered to allocate, out of special operating funds under which personnel are employed or from sources other than tax revenues, sufficient funds to conform with the provisions of this section, provided necessary funds are available or made available by sponsoring agents. The Director of the Budget is further authorized to promulgate special

rules and regulations to apply to salary increases for employees whose salaries are paid from inter-agency receipts, where payments for the services of such employees originate from State appropriations, to the end that the effective purchasing power of such appropriations shall not be materially reduced as a result of these salary increases. Any question as to the applicability of the provisions of this paragraph shall be resolved by the Director of the Budget and the Advisory Budget Commission.

Salaries for positions which are paid partially from the General Fund and partially from sources other than the General Fund shall be increased from the General Fund appropriation only to the extent of the proportionate part of the salaries paid from the General Fund.

The salary increases shall not affect the status of eligibility for automatic and/or merit salary increments for which the employee may be eligible for the fiscal year 1973-74 notwithstanding the granting of the legislative salary increase.

The salary ranges for all employees under the Personnel Act shall be increased, so far as the maximums are concerned, by amounts corresponding to those of this legislative salary increase to the end that, after the salary increases provided for in this act are made, every employee will continue to have the same relative position with respect to salary increases and future increments as he would have had if the salary increases provided by this act had not been made.

The salary increases provided in this act to be effective July 1, 1973, shall not apply to persons separated from the State service due to resignation, dismissal, reduction in force, death or retirement, whose last work day is prior to July 1, 1973.

Sec. 27. The Director of the Budget is authorized and empowered to transfer to General Fund budget codes from the General Fund Salary Adjustment appropriation, and to Highway Fund budget codes from the Highway Fund Salary Adjustment appropriation, such amounts as may be required to support approved salary adjustments, including premium pay, made necessary by difficulties in recruiting and holding qualified employees in State Government. These funds are intended to be transferred only when the use of salary reserve funds in individual operating budgets is not feasible.

Sec. 28. The salary of the Chief Justice of the Supreme Court shall be thirty-nine thousand dollars (\$39,000) per annum, and the salary of each of the Associate Justices of the Supreme Court shall be thirty-eight thousand dollars (\$38,000) per annum; the salary of the Chief Judge of the Court of Appeals shall be thirty-six thousand five hundred dollars (\$36,500) per annum, and the salaries of the Judges of said Court shall be thirty-five thousand five hundred dollars (\$35,500) per annum; the salaries of the Judges of the Superior Court shall be thirty thousand five hundred dollars (\$30,500) per annum; the salary of the Chief Judge of each District Court shall be twenty-four thousand five hundred (\$24,500) per annum, and the salary of each District Court Judge shall be twenty-three thousand five hundred dollars (\$23,500) per annum; the salary of each Solicitor shall be twenty-seven thousand dollars (\$27,000) per annum, and the salaries of the Assistant Solicitors shall average seventeen thousand five hundred dollars (\$17,500) per annum. The salary of the Administrative Officer of the Courts shall be thirty-two thousand five hundred dollars (\$32,500) per annum, and the salary of the Assistant Administrative Officer of the Courts shall be twenty-four thousand dollars (\$24,000) per annum. The salary of each

Public Defender shall be twenty-seven thousand dollars (\$27,000) per annum, and the salaries of the Assistant Public Defenders shall average seventeen thousand five hundred dollars (\$17,500) per annum. The salary of the Clerk of the Court of Appeals shall be twenty-one thousand and fifty-two dollars (\$21,052) per annum, the salary of the Clerk of the Supreme Court shall be twenty-two thousand one hundred and eight dollars (\$22,108) per annum, and the salary of the Marshall-Librarian of the Supreme Court shall be twenty-one thousand one hundred and sixty dollars (\$21,160) per annum.

The beginning salary of any Assistant Solicitor and Assistant Public Defender shall be twelve thousand dollars (\$12,000) or less per annum, unless said employee has more than one year of criminal trial experience.

Sec. 29. The requirements of paragraph five (5) of Chapter 864 of 1971, which requires each department to submit an Annual Plan of Work, is waived for fiscal year 1973-74.

EFFECTIVE

Sec. 30. The provisions of the Executive Budget Act, Chapter 143, Article 1, of the General Statutes, are re-enacted and shall remain in full force and effect, and are incorporated in this act by reference.

Sec. 31. If any section or provision of this act be declared unconstitutional or invalid by the courts, the same shall not affect the validity of the act as a whole or any part other than the part so declared to be unconstitutional or invalid.

Sec. 32. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 33. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 16th day of May, 1973.

H. B. 297

CHAPTER 534

AN ACT TO PROVIDE FOR THE PROTECTION AND CONSERVATION OF THE NATURAL RESOURCES OF THE STATE OF NORTH CAROLINA THROUGH REGULATION AND CONTROL OF SOURCES OF OIL POLLUTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. Chapter 143 is hereby amended by adding thereto a new Article, to be numbered Article 53, and to read as follows:

“Article 53.

“Oil Pollution Control.

“Part 1.

“General Provisions.

“§ 143-471. *Title.*—This Article shall be known and may be cited as the ‘Oil Pollution Control Act of 1973.’

“§ 143-472. *Purpose.*—It is the purpose of this Article to promote the health, safety, and welfare of the citizens of this State by protecting the land and the waters over which this State has jurisdiction from pollution by oil, oil products and oil by-products. It is not the intention of this Article to exercise jurisdiction over any matter as to which the United States Government has exclusive jurisdiction, nor in any wise contrary to any governing provision of federal law, and no provision of this Article shall be so construed. The General Assembly

further declares that it is the intent of this Article to support and complement applicable provisions of the Federal Water Pollution Control Act, as amended, 33 U.S.C. Sections 1251, *et seq.*, as amended, and the National Contingency Plan for removal of oil adopted pursuant thereto.

“§ 143-473. *Definitions.*—As used in this Article, unless the context otherwise requires:

- (1) ‘Barrel’ shall mean 42 U.S. gallons at 60 degrees Fahrenheit.
- (2) ‘Board’ shall mean the North Carolina Board of Water and Air Resources.
- (3) ‘Office’ shall mean the North Carolina Office of Water and Air Resources.
- (4) ‘Director’ shall mean the North Carolina Director of Water and Air Resources.
- (5) ‘Discharge’ shall mean, but shall not be limited to, any emission, spillage, leakage, pumping, pouring, emptying, or dumping of oil into waters, or upon land in such proximity to waters that oil is reasonably likely to reach the waters, but shall not include discharges in amounts determined by the board to be not harmful to the public health or welfare (including but not limited to fish, shellfish, wildlife and public and private property, shorelines, and beaches); provided, however, that this act shall not be construed to prohibit the oiling of driveways, roads or streets for reduction of dust or routine maintenance; provided further, that the use of oil, oilbased products, or chemicals on the land or waters by any State, county, or municipal government agency in any program of mosquito or other pest control, or their use by any person on agricultural, horticultural, or forestry crops, or in connection with aquatic weed control or structural pest and rodent control, in a manner approved by the State, county, or local agency charged with authority over such uses, shall not constitute a discharge.
- (6) ‘Having control over oil’ shall mean, but shall not be limited to, any person using, transferring, storing, or transporting oil immediately prior to a discharge of such oil onto the land or into the waters of the State, and specifically shall include carriers and bailees of such oil.
- (7) ‘Land’ shall mean only land from which it is reasonably likely that oil will flow into the waters of this State.
- (8) ‘Oil’ shall mean oil of any kind and in any form, including, but specifically not limited to, petroleum, crude oil, diesel oil, fuel oil, gasoline, lubrication oil, oil refuse, oil mixed with other waste, oil sludge, petroleum related products or by-products, and all other liquid hydrocarbons, regardless of specific gravity, whether singly or in combination with other substances.
- (9) ‘Oil bailee’ shall mean any person who accepts oil to hold in trust for another for a special purpose and for a limited period of time.
- (10) ‘Oil carrier’ shall mean any person who engages in the transportation of oil for compensation.
- (11) ‘Oil terminal facility’ shall mean any facility of any kind and related appurtenances located in, on or under the surface of any land, or water, including submerged lands, which is used or capable of being used for the purpose of transferring, transporting, storing, processing, or refining oil; but shall not include any facility having a storage capacity of less than 500 barrels, nor any retail gasoline dispensing operation serving the motoring public. A vessel shall be considered an oil terminal facility only in the event that it is utilized to transfer oil from another vessel to an oil terminal facility; or to transfer oil

between one oil terminal facility and another oil terminal facility; or is used to store oil.

(12) 'Operator' shall mean any person owning or operating an oil terminal facility or pipeline, whether by lease, contract, or any other form of agreement.

(13) 'Person' shall mean any and all natural persons, firms, partnerships, associations, public or private institutions, municipalities or political subdivisions, governmental agencies, or private or public corporations organized or existing under the laws of this State or any other state or country.

(14) 'Pipeline' shall mean any conduit, pipe or system of pipes, and any appurtenances related thereto and used in conjunction therewith, used, or capable of being used, for transporting or transferring oil to, from, or between oil terminal facilities.

(15) 'Restoration' or 'restore' shall mean any activity or project undertaken in the public interest or to protect public interest or to protect public property or to promote the public health, safety or welfare for the purpose of restoring any lands or waters affected by an oil discharge as nearly as is possible or desirable to the condition which existed prior to the discharge.

(16) 'Transfer' shall mean the transportation, on-loading or off-loading of oil between or among two or more oil terminal facilities; between or among oil terminal facilities and vessels; and between or among two or more vessels.

(17) 'Vessel' shall include every description of watercraft or other contrivance used, or capable of being used, as a means of transportation on water, whether self-propelled or otherwise, and shall include, but shall not be limited to, barges and tugs; provided that the term 'vessel' as used herein shall not apply to any pleasure, sport or commercial fishing vessel which has a fuel capacity of less than 500 gallons and is not used to transport petroleum, petroleum products, or general cargo.

(18) 'Waters' shall mean any stream, river, creek, brook, run, canal, swamp, lake, sound, tidal estuary, bay, reservoir, waterway or any other body or accumulation of water, surface or underground, public or private, natural or artificial, which is contained within, flows through, or borders upon this State, or any portion thereof, including those portions of the Atlantic Ocean over which this State has jurisdiction.

"§ 143-474. *Oil Pollution Control Program.*—The board shall establish within the office an Oil Pollution Control Program for the administration of this Article. The board may employ and prescribe the duties of employees assigned to this activity.

"§ 143-475. *Inspections and investigations; entry upon property; records.*—The board, through its authorized representatives, is empowered to conduct such inspections and investigations as shall be reasonably necessary to determine compliance with the provisions of this Article; to determine the person or persons responsible for violation of this Article; to determine the nature and location of any oil discharged to the land or waters of this State; and to enforce the provisions of this Article. The authorized representatives of the board are empowered upon presentation of their credentials to enter upon any private or public property, including boarding any vessel, for the purpose of inspection or investigation or in order to conduct any project or activity to contain, collect, disperse or remove oil discharges or to perform any restoration necessitated by an oil discharge. Neither the State nor its agencies, employees or agents shall be liable in trespass or damages arising out of the conduct of any inspection,

investigation, or oil removal or restoration project or activity other than liability for damage to property or injury to persons arising out of the negligent or willful conduct of an employee or agent of the State during the course of an inspection, investigation, project or activity.

“§ 143-476. *Confidential information.*—Any information relating to a secret process, device or method of manufacturing or production discovered or obtained in the course of an inspection, investigation, project or activity conducted pursuant to this Article shall not be revealed except as may be required by law or lawful order or process.

“§ 143-477. *Authority supplemental.*—The authority and powers granted under this Article shall be in addition to, and not in derogation of, any authority or powers vested in the board under any other provision of law, except to the extent that such other powers or authority may conflict directly with the powers and authority granted under this Article; and the board is empowered to adopt such rules and regulations as are necessary to administer and carry out the purposes of this Article.

“§ 143-478. *Local ordinances.*—Nothing in the Article shall be construed to deny any county, municipality, sanitary district, metropolitan sewerage district or other authorized local governmental entity, by ordinance, regulation or law, from exercising police powers with reference to the prevention and control of oil discharges to sewers or disposal systems.

“Part 2.

“Oil Discharge Controls.

“§ 143-479. *Discharges.*—(a) Unlawful discharges. It shall be unlawful, except as otherwise provided in this Part, for any person to discharge, or cause to be discharged, oil into or upon any waters, tidal flats, beaches, or lands within this State, or into any sewer, surface water drain or other waters that drain into the waters of this State, regardless of the fault of the person having control over the oil, or regardless of whether the discharge was the result of intentional or negligent conduct, accident or other cause.

(b) Excepted discharges. This section shall not apply to discharges of oil in the following circumstances:

- (1) When the discharge was authorized by an existing regulation of the board.
- (2) When any person subject to liability under this Article proves that a discharge was caused by any of the following:
 - a. An act of God.
 - b. An act of war or sabotage.
 - c. Negligence on the part of the United States Government or the State of North Carolina or its political subdivisions.
 - d. An act or omission of a third party, whether any such act or omission was or was not negligent.
 - e. Any act or omission by or at the direction of a law enforcement officer or fireman.

(c) Permits. Any person who desires or proposes to discharge oil onto the land or into the waters of this State shall first make application for and secure the permit required by G.S. 143-215.1. Application shall be made pursuant to the rules and regulations adopted by the board. Any permit granted pursuant to this subsection may contain such terms and conditions as the board shall deem

necessary and appropriate to conserve and protect the land or waters of this State and the public interest therein.

“§ 143-480. *Removal of prohibited discharges.*—(a) Person discharging. Any person having control over oil discharged in violation of this Article shall immediately undertake to collect and remove the discharge and to restore the area affected by the discharge as nearly as may be to the condition existing prior to the discharge. If it is not feasible to collect and remove the discharge, the person responsible shall take all practicable actions to contain, treat and disperse the discharge; but no chemicals or other dispersants or treatment materials which will be detrimental to the environment or natural resources shall be used for such purposes unless they shall have been previously approved by the board.

(b) Removal by board. Notwithstanding the requirements of subsection (a) of this section, the board is authorized and empowered to utilize any staff, equipment and materials under its control or supplied by other cooperating State or local agencies and to contract with any agent or contractor that it deems appropriate to take such actions as are necessary to collect, investigate, perform surveillance over, remove, contain, treat or disperse oil discharged onto the land or into the waters of the State and to perform any necessary restoration. The director shall keep a record of all expenses incurred in carrying out any project or activity authorized under this section, including actual expenses incurred for services performed by the State's personnel and for use of the State's equipment and material. The authority granted by this subsection shall be limited to projects and activities that are designed to protect the public interest or public property, and shall be compatible with the National Contingency Plan established pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. Sections 1251 *et seq.*

“§ 143-481. *Required notice.*—Every person owning or having control over oil discharged in violation of the provisions of this Article, upon notice that such discharge has occurred, shall immediately notify the office, or any of its agents or employees, of the nature, location and time of the discharge and of the measures which are being taken or are proposed to be taken to contain and remove the discharge. The agent or employee of the office receiving the notification shall immediately notify the director or assistant director of the board or such member or members of the permanent staff of the office as the director may designate.

“§ 143-482. *Other State agencies.*—(a) Cooperative effort. The North Carolina State Highway Commission, the North Carolina Department of Conservation and Development, the North Carolina Wildlife Resources Commission, and any other agency of this State shall cooperate with and lend assistance to the board by assigning to the board upon its request personnel, equipment and material to be utilized in any project or activity related to the containment, collection, dispersal or removal of oil discharged upon the land or into the waters of this State.

(b) Planning. Subsequent to ratification of this Article and prior to its effective date, designated representatives of the board, the State Highway Commission, the Department of Conservation and Development and the Wildlife Resources Commission and any other agency or agencies of the State which the board shall deem necessary and appropriate, shall confer and establish plans and procedures for the assignment and utilization of personnel, equipment and material to be used in carrying out the purposes of this Part. Every State

agency involved is authorized to adopt such rules and regulations as shall be necessary to effectuate the purposes of this section.

(c) *Accounts.* Every State agency participating in the containment, collection, dispersal or removal of an oil discharge or in restoration necessitated by such discharge, shall keep a record of all expenses incurred in carrying out any such project or activity including the actual services performed by the agency's personnel and the use of the agency's equipment and material. A copy of all records shall be delivered to the board upon completion of the project or activity.

“§ 143-483. *Oil Pollution Protection Fund.*—There is hereby established under the control and direction of the board an Oil Pollution Protection Fund which shall be a non-lapsing, revolving fund consisting of any monies appropriated for such purpose by the General Assembly or that shall be available to it from any other source. The monies shall be used to defray the expenses of any project or program for the containment, collection, dispersal or removal of oil discharged to the land or waters of this State or for restoration necessitated by the discharge. In addition to any monies that shall be appropriated or otherwise made available to it, the fund shall be maintained by fees, charges, penalties or other monies paid to or recovered by or on behalf of the board under the provisions of this Part. Any monies paid to or recovered by or on behalf of the board as fees, charges, penalties or other payments as damages authorized by this Part shall be paid to the Oil Pollution Protection Fund in an amount equal to the sums expended from the fund for the project or activity. Within the meaning of this section, the word ‘penalties’ means civil penalties and does not include criminal fines or penalties.

“§ 143-484. *Payments to State agencies.*—Upon completion of any oil removal or restoration project or activity conducted pursuant to the provisions of this Part, each agency of the State that has participated by furnishing personnel, equipment or material shall deliver to the board a record of the expenses incurred by the agency. The amount of incurred expenses shall be disbursed by the director to each such agency from the Oil Pollution Protection Fund. Upon completion of any oil removal or restoration project or activity, the director shall prepare a statement of all expenses and costs of the project or activity expended by the State and shall make demand for payment upon the person having control over the oil discharged to the land or waters of the State, unless the board shall determine that the discharge occurred due to any of the reasons stated in G.S. 143-480(b). Any person having control of oil discharged to the land or waters of the State in violation of the provisions of this Part and any other person causing or contributing to the discharge of oil shall be directly liable to the State for the necessary expenses of oil cleanup projects and activities arising from such discharge and the State shall have a cause of action to recover from any or all such persons. If the person having control over the oil discharged shall fail or refuse to pay the sum expended by the State, the director shall refer the matter to the Attorney General of North Carolina, who shall institute an action in the name of the State in the Superior Court of Wake County, or in his discretion, in the superior court of the county in which the discharge occurred, to recover such cost and expenses.

“§ 143-485. *Multiple liability for necessary expenses.*—Any person liable for costs of cleanup of oil under this Part shall have a cause of action to recover such costs in part or in whole from any other person causing or contributing to the

discharge of oil into the waters of the State, including any amount recoverable by the State as necessary expenses. The total recovery by the State for damage to public resources pursuant to G.S. 143-487 and for the cost of oil cleanup, arising from any discharge, shall not exceed the applicable limits prescribed by federal law with respect to the United States Government on account of any such discharge.

“§ 143-486. *Liability for damage to public resources.*—Any person who violates any of the provisions of this Article, or any order, rule or regulation of the board adopted pursuant to this Article, or fails to perform any duty imposed by this Article, or violates an order or other determination of the board made pursuant to the provisions of this Article, including the provisions of a discharge permit issued pursuant to G.S. 143-215.1, and in the course thereof causes the death of, or injury to, fish, animals, vegetation or other resources of the State or otherwise causes a reduction in the quality of the waters of the State below the standards set by the Board of Water and Air Resources, shall be liable to pay the State damages in an amount equal to the sum of money necessary to restock such waters, replenish such resources, or otherwise restore the rivers, streams, bays, tidal flats, beaches, estuaries or coastal waters and public lands adjoining the seacoast to their condition prior to the injury, as such condition is determined by the Board of Water and Air Resources in conference with the Board of Conservation and Development, the Wildlife Resources Commission, and any other State agencies having an interest affected by such violation (or by the designees of any or all of such boards, commissions and agencies). Such damages shall be recoverable in an action brought by the Attorney General in the name of the State in the Superior Court of the county in which the damage occurred or in which the violator resides or has his or its principal place of business, as he shall elect; provided, that if damages occurred in more than one county, the Attorney General may bring an action in any of the counties where the damages occurred. Any money so recovered by the Attorney General shall be transferred by the board to appropriate funds administered by the State agencies affected by the violation for use in such activities as food fish or shellfish management programs, wildlife and waterfowl management programs, water quality improvement programs and such other uses as may best mitigate the damage incurred as a result of the violation. No action shall be authorized under the provisions of this section against any person operating in compliance with the conditions of a waste discharge permit issued pursuant to G.S. 143-215.1 and the provisions of this Part.

“§ 143-487. *Penalties.*—(a) Civil penalties. Any person who intentionally or negligently discharges oil, or knowingly causes or permits the discharge of oil in violation of this part or fails to report a discharge as required by G.S. 143-481, shall incur, in addition to any other penalty provided by law, a penalty in an amount not to exceed five thousand dollars (\$5,000) for every such violation, the amount to be determined by the board after taking into consideration the gravity of the violation, the previous record of the violator in complying or failing to comply with the provisions of this Part as well as G.S. 143-215.1, and such other considerations as the board deems appropriate. Every act or omission which causes, aids or abets a violation of this section shall be considered a violation under the provisions of this section and subject to the penalty herein provided. The penalty herein provided for shall become due and payable when the person incurring the penalty receives a notice in writing from the board

describing the violation with reasonable particularity and advising such person that the penalty is due. The board may, upon written application therefor, received within 15 days, and when deemed in the best interest of the State in carrying out the purposes of this Article, remit or mitigate any penalty provided for in this section or discontinue any action to recover the penalty upon such terms as it, in its discretion, shall deem proper, and shall have the authority to ascertain facts upon all such applications in such manner and under such regulations as the board may adopt. If the amount of such penalty is not paid to the department within 15 days after receipt of notice, or if an application for remission or mitigation has not been made within 15 days as herein provided, and the amount provided in the order issued by the board subsequent to such application is not paid within 15 days of receipt thereof, the Attorney General, upon request of the board, shall bring an action in the name of the State in the Superior Court of Wake County or of any other county wherein such violator does business, to recover the amount specified in the final order of the board. In any such action, the amount of the penalty shall be subject to review by the court. In all such actions the procedures and rules of evidence shall be the same as in an ordinary civil action except as otherwise in this Article provided. Notification received pursuant to this subsection or information obtained by the exploitation of such notification shall not be used against any person in any criminal case, except as prosecution for perjury or for giving a false statement.

(b) *Criminal penalties.* Any person who intentionally or knowingly or willfully discharges or causes or permits the discharge of oil in violation of this Part shall be guilty of a misdemeanor punishable by imprisonment not to exceed six months or by fine to be not more than ten thousand dollars (\$10,000), or by both, in the discretion of the court. No proceeding shall be brought or continued under this subsection for or on account of a violation by any person who has previously been convicted of a federal violation or a local ordinance violation based upon the same set of facts.

“§ 143-488. *Lien on vessel.*—Any vessel (other than one owned or operated by the State of North Carolina or its political subdivisions or the United States Government) from which oil is discharged in violation of this Part or any regulation prescribed pursuant thereto, shall be liable for the pecuniary penalty and costs of oil removal specified in this Part and such penalty and costs shall constitute a lien on such vessel; provided, however, that said lien shall not attach if a surety bond is posted with the board in an amount and with sureties acceptable to the board, or a cash deposit is made with the board in an amount acceptable to the board. Provided further, that such lien shall not have priority over any existing perfected lien or security interest. The board may adopt regulations providing for such conditions, limitations, and requirements concerning the bond or deposit prescribed by this section as the board deems necessary.

“§ 143-489. *Liability for damage caused.*—Any person having control over oil which enters the waters of the State in violation of this Part shall be strictly liable, without regard to fault, for damages to persons or property, public or private, caused by such entry, subject to the exceptions enumerated in G.S. 143-479(b).

“§ 143-490. *Joint and several liability.*—In order to provide maximum protection for the public interest, any actions brought pursuant to G.S. 143-485 through 143-488(a), 143-490 or any other section of this Article, for recovery of

cleanup costs or for civil penalties or for damages, may be brought against any one or more of the persons having control over the oil or causing or contributing to the discharge of oil. All said persons shall be jointly and severally liable, but ultimate liability as between the parties may be determined by common law principles.

“Part 3.

“Oil Terminal Facilities.

“§ 143-491. *Duties of Secretary of Natural and Economic Resources.*—The Secretary of Natural and Economic Resources shall administer the provisions for registration of oil terminal facilities contained in this Part. In addition, he shall engage in such study and research concerning oil terminal facilities and their regulation in this State and elsewhere as may be required to furnish the General Assembly with a thorough factual basis for his recommendations for further legislation pursuant to this Part.

“§ 143-492. *Oil Terminal Facility Registration.*—Prior to November 10, 1973, the owner or operator of every oil terminal facility in the State shall secure a registration certificate from the Secretary of Natural and Economic Resources. Such a certificate shall be issued only where the applicant shall have furnished the following information concerning the oil terminal facility:

(a) Complete name of owner and operator of the oil terminal facility together with addresses and telephone numbers;

(b) Number of employees of the oil terminal facility and the principal officers;

(c) Maps or sketches, based on criteria developed by the Secretary of Natural and Economic Resources to show property lines of the oil terminal facility and location of nearby watercourses or bodies of water as specified by the Secretary; and

(d) Summary of present and proposed procedures, if any, for prevention of oil spills.

The owner or operator of any oil terminal facility which begins operation subsequent to the initial registration date specified in this section shall secure a registration certificate no later than 30 days after beginning operations.

“§ 143-493. *Recommendations; Regulations; Definitions.*—(a) The Secretary of Natural and Economic Resources shall present recommended further legislation concerning oil pollution to the General Assembly by February 1, 1974. Such recommended legislation may include provisions (1) designating or creating a State agency to regulate oil terminal facilities; (2) specifying the legal responsibility of oil terminal facilities for prevention of oil spills, and for related measures to protect the public interest; (3) creating a system of licensing of oil terminal facilities, or such alternative measures as the Secretary deems needful to protect the public interest; and (4) such other provisions as the Secretary shall deem necessary and appropriate.

(b) The Secretary of Natural and Economic Resources may adopt and modify from time to time rules and regulations consistent with this Part to implement the provisions of this Part. All such rules and regulations and modifications thereof, shall be filed with the Secretary of State as required by Article 18 of Chapter 143 of the General Statutes.

“§ 143-494. *Violations.*—Any person who shall be adjudged to have violated any provision of this Part or any rule or regulation of the Secretary of Natural and Economic Resources adopted hereunder shall be guilty of a misdemeanor,

punishable upon conviction by a fine of not exceeding fifty dollars (\$50.00) or by imprisonment for not exceeding 30 days or by both such fine and imprisonment.

“§ 143-495. *Oil refinery permits.*—No facility which is used or capable of being used for the purpose of refining oil shall be initiated or constructed prior to July 1, 1974, without a permit from the board. The board shall deny such permit upon finding: (1) that the installation will have substantial adverse effects on wildlife or on fresh water, estuarine or marine fisheries; (2) that the operation of the installation will violate standards of air or water quality promulgated or administered by the board; (3) that the installation will have a substantial adverse effect on a publicly owned park, forest or recreation area; or (4) that the installation will have substantial adverse effects on the public health, safety or welfare that are not outweighed by the benefits of the installation. In the absence of such findings, a permit shall be granted. The board may adopt rules and regulations prescribing procedures to be followed in connection with such permits.

“§ 143-496. *Severability.*—(a) General severability clause. If any provision of this Article or the application thereof to any person or circumstance is held invalid, whether by federal or State constitutions or laws, such invalidity shall not affect other provisions or applications of the Article which can be given effect without the invalid provision or application, and to this end the provisions of this Article are declared to be severable.

(b) Special severability clause. Without limiting the effect of subsection (a) of this section, the following provisions of this Article are hereby specifically declared to be severable:

- (i) This Article in its entirety is intended to be severable from the general water pollution control laws of North Carolina (G.S. Chapter 143, Article 21, Part 1 and related statutes).
- (ii) The provisions of this Article, in their application to inland waters and related lands, are intended to be severable from those provisions in their application to coastal and marine waters and related lands.
- (iii) The various liability and penalty provisions of this Article (including G.S. 143-484, G.S. 143-485, G.S. 143-486, G.S. 143-487(a) and G.S. 143-487(b), as well as the several components of each of said sections and subsections) are intended to be severable from one another.
- (iv) Part 3 of this Article is intended to be severable from Part 2.”

Sec. 2. This act shall be effective from and after September 1, 1973.

In the General Assembly read three times and ratified, this the 16th day of May, 1973.

H. B. 390

CHAPTER 535

AN ACT TO REWRITE ARTICLE 22 OF CHAPTER 153 OF THE GENERAL STATUTES RELATING TO THE AUTHORITY OF COUNTIES TO COLLECT AND DISPOSE OF GARBAGE AND SOLID WASTE.

The General Assembly of North Carolina enacts:

Section 1. Article 22 of Chapter 153 of the General Statutes is hereby rewritten to read:

“Article 22

“Garbage and Solid Waste Collection and Disposal

“§ 153-272. The following definitions shall apply in the administration, enforcement and interpretation of this Article:

(1) ‘Garbage’ - all putrescible wastes, including animal and vegetable matter, animal offal and carcasses, and recognizable industrial by-products, but excluding sewage and human wastes.

(2) ‘Refuse’ - all nonputrescible wastes.

(3) ‘Solid waste’ - garbage, refuse, rubbish, trash, and other discarded solid materials, including solid waste materials resulting from homes, businesses, industrial, commercial, and agricultural operations, and from community activities, but does not include solids or dissolved materials in domestic sewage or other significant pollutants in water resources, such as silt, dissolved or suspended solids in industrial waste water effluents, dissolved materials in irrigation return flows or other common water pollutants.

(4) ‘Solid waste disposal’ - the collection, storage, treatment, utilization, processing, or final disposal of solid waste.

(5) ‘Solid waste disposal facility’ - land, personnel, equipment or other resources used in the disposal of solid wastes.

(6) ‘Solid waste disposal site’ - any place at which solid wastes are disposed of by incineration, sanitary landfill or any other methods.

The board of county commissioners of any county is hereby empowered to regulate the collection and disposal of garbage, refuse, and solid waste by private persons, firms or corporations outside the municipalities of the county for the purpose of encouraging and attempting to insure an adequate and continuing service of garbage, refuse and solid waste collection and disposal when the board deems it desirable.

The board may license any person, firm or corporation to engage in such services, and may prohibit the collection and disposal by unlicensed persons, firms or corporations. The board may grant to those licensed under this act the exclusive right to collect or dispose, or both, garbage, refuse and solid waste for compensation within the entire county or within specified areas of the county and prohibit unauthorized persons, firms or corporations from engaging in the same service within the area where the exclusive right has been granted.

The board shall regulate the fees charged by licensed persons, firms or corporations for the collection and disposal of garbage, refuse, and solid waste to the end that adequate service may be furnished and reasonable compensation may be provided for such services.

The board shall adopt such regulations as it deems necessary to carry out the purpose and intent of this section and to provide adequate services to the citizens of the county. A violation of such regulations shall be a misdemeanor punishable by a fine not to exceed fifty dollars (\$50.00) or imprisonment not to exceed 30 days. Each week that such violation continues to exist shall be a separate offense.

“§ 153-273. *County collection and disposal; tax levy.*—The board of county commissioners of any county is hereby empowered to establish and operate garbage, refuse, and solid waste collection and disposal facilities, or either, in areas outside of incorporated cities and towns where, in its opinion, the need for such facilities exists. The board may by ordinance regulate the use of such garbage, refuse, and solid waste disposal facilities; the nature of the solid wastes disposed of therein; and the method of disposal. Ordinances so adopted may be

enforced by any law enforcement officer having jurisdiction, which shall include, but not be limited to, officers of the county sheriff's department, county police department and the State Highway Patrol. The board may contract with any municipality, individual, or privately owned corporation to collect and dispose, or collect or dispose, of garbage, refuse, and solid waste in any such area provided no county shall be authorized by this act to levy a disposal fee upon any municipality located in that county if the Board of Commissioners levy a county wide tax on property which provides in part for financing such disposal facilities. In the disposal of garbage, refuse, and solid waste, the board may use any vacant land owned by the county, or it may acquire suitable sites for such purpose. The board may make appropriations to carry out the activities herein authorized. The board may impose fees for the use of disposal facilities, and in the event it shall provide for the collection of garbage, refuse, and solid waste, it may charge fees for such collection service sufficient in its opinion to defray the expense of collection. Counties and municipalities therein are authorized to establish and operate joint collection and disposal facilities, or either of these, upon such terms as the governing bodies may determine. Such agreement shall be in writing and executed by the governing body of the participating units of local government.

The board of commissioners of each county is hereby authorized to levy taxes for the special purpose of carrying out the authority conferred by this section, in addition to the rate of tax allowed by the Constitution for general purposes, and the General Assembly hereby gives its special approval for such tax levies.

The board of county commissioners may use any vacant land owned by the county, and it may acquire by purchase or condemnation suitable land for the disposal sites, and in the event condemnation of said lands is necessary, the procedure used shall be that set forth in Chapter 40 of the North Carolina General Statutes.

The board may impose fees for the use of the disposal site, and if the county provides for collection services, it shall charge fees sufficient to defray the expense of collection.

The board of commissioners of each county is authorized to levy taxes for the special purpose of carrying out the authority conferred by this section, in addition to the rate of tax allowed by the Constitution for general purposes, and the General Assembly hereby gives its special approval for such tax levies. The board of commissioners is authorized to make appropriations from these tax funds, and from non-revenue funds which may be available. Provided that the County Board of Commissioners, may authorize the erection of a gate across a State or county maintained highway leading directly to a sanitary landfill or garbage disposal site which is operated by the county. The gate may be erected at or in close proximity to the boundary of the landfill or garbage disposal site. The cost of the erection of the gate and its maintenance is to be borne by the county, and the gate shall be closed upon authority of the County Commissioners.

*“§ 153-274. Powers of local boards of health unaffected.—*Nothing in this Article shall affect the powers of local boards of health to control the keeping, removal, collection, and disposal of garbage, insofar as the exercise of any such power is necessary to protect and advance the public health.

*“§ 153-275. Powers granted herein supplementary.—*The powers granted to counties by this Article shall be deemed supplementary to any powers heretofore

or hereafter granted by any other law, either general, special, or local, for the same or a similar purpose, and in any case where the provisions of this Article conflict with or are different from the provisions of such other law, the board of county commissioners may in its discretion proceed in accordance with the provisions of such other law, or, as an alternative method, in accordance with the provisions of this Article.

“§ 153-275.1. *State Highway Commission authorized to cooperate with counties in establishing and operating garbage disposal facilities.*—The State Highway Commission is authorized to cooperate with any county in establishing and operating garbage disposal facilities in areas outside of incorporated cities and towns under the provisions of Article 22 of Chapter 153 of the General Statutes, or otherwise and may make available prison and other labor and the use of equipment for said purpose to any county and the said county shall reimburse the State Highway Commission for the cost to the Commission of said labor and use and operation of said equipment. Before any work is undertaken under this section, the Commission and the county for which the work is to be performed shall enter into an agreement specifying the work to be performed and the basis upon which reimbursement will be made to the State Highway Commission.”

Sec. 2. This act is effective on ratification.

In the General Assembly read three times and ratified, this the 16th day of May, 1973.

H. B. 94

CHAPTER 536

AN ACT TO AMEND ARTICLE 20 OF CHAPTER 163 OF THE GENERAL STATUTES SO AS TO PERMIT ABSENTEE VOTING.

The General Assembly of North Carolina enacts:

Section 1. Article 20 of Chapter 163 of the General Statutes is hereby amended by rewriting G.S. 163-226 through G.S. 163-234 to read as follows:

“§ 163-226. *Who may vote an absentee ballot.*—(a) Any qualified voter of the State, whether or not in the armed forces of the United States, may vote by absentee ballot in a statewide primary or general election in the manner provided in this Article if:

- (1) He expects to be absent from the county in which he is registered during the entire period that the polls are open on the day of the statewide primary or general election in which he desires to vote; or
- (2) He is unable to be present at the voting place to vote in person on the day of the statewide primary or general election in which he desires to vote because of his sickness or other physical disability.

(b) Any qualified voter of a county who is qualified to vote by absentee ballot under this section in a statewide primary or general election is authorized to vote by absentee ballot in any county bond election in accordance with the provisions of this Article.

(c) Any qualified voter who has been convicted of a misdemeanor and who is incarcerated, whether in his county of residence or elsewhere, shall be entitled to vote by absentee ballot in the county of his residence in any election in which he otherwise would be entitled to vote under the provisions of subsections (a) and (b), above. Absentee voting shall be in the same manner as provided in this Article. The chief custodian or superintendent of the institution or other place

of confinement shall certify that the applicant is a misdemeanor, and the certification shall be as prescribed by the State Board of Elections. The State Board of Elections is authorized to adopt and promulgate rules and regulations to carry out the intent and purpose of this subsection.

(d) A qualified voter may vote by absentee ballot in a statewide primary of his political party only if, at the time he makes application for absentee ballots for that primary, he is affiliated with that political party. The official registration records of the county in which the voter is registered shall be proof of whether he is affiliated with a political party and of the party, if any, with which he is affiliated.

“§ 163-227. *Application for absentee ballots; forms of application.*—A voter falling in either of the categories defined in G.S. 163-226 may apply for absentee ballots not earlier than 60 days prior to the statewide primary or general election or county bond election in which he seeks to vote and not later than 6:00 p.m. on the Wednesday before that election. Subject to the provisions of G.S. 163-227.2 and except as provided in the following paragraph, the voter or a near relative shall apply for absentee ballots under the provisions of subdivision (1) or subdivision (2) of this section.

If a voter unexpectedly becomes ill or physically disabled to the extent defined in G.S. 163-226 after 6:00 p.m. on the Wednesday before the primary or general election and before 10:00 a.m. on the day before the election, he or a near relative may apply for absentee ballots under the provisions of subdivision (3) of this section.

(1) Expected absence from county on election day. A voter expecting to be absent from the county in which registered during the entire period that the polls will be open on primary or general election day, or a near relative, shall make written application for absentee ballots to the chairman of the board of elections of the county in which the voter is registered not earlier than 60 days nor later than 6:00 p.m. on the Wednesday before the election. The application shall be submitted in the form set out at the end of this subdivision upon a copy which shall be furnished the voter or a near relative by the chairman of the county board of elections.

The applicant shall sign his application personally, or it shall be signed by a near relative. The application shall be signed in the presence of a witness, who shall sign his name in the place provided on the form. The application form when properly filled out shall be transmitted by mail or delivered in person by the applicant or a near relative to the chairman or the executive secretary of the county board of elections.

The form for use in applying for absentee ballots under this subdivision shall be as follows:

AFFIDAVIT AND APPLICATION FOR BALLOTS BY VOTER WHO EXPECTS TO BE ABSENT FROM COUNTY IN WHICH REGISTERED ON PRIMARY OR GENERAL ELECTION DAY.

(Anyone who falsifies this statement is subject to a fine or imprisonment, or both.)

Application No. _____ issued to _____

(This line shall be filled out before application is issued.)

State of _____

County of _____

I, _____, certify that I am a

registered voter residing in _____ precinct,
 _____ township, in the County of _____,
 North Carolina, and that I am lawfully entitled to vote in that
 precinct at the primary, general or bond election to be held
 thereon on the _____ day of _____, 19 ____;
 that I expect to be absent from the county of my residence during
 the entire period that the polls will be open on the day of the
 election, and that I will have no opportunity to vote in person
 on that day.

I hereby make application for an official ballot or ballots on which I may vote
 at the primary, general or bond election specified. I will return the ballot or
 ballots by mail or will deliver them in person to the chairman or executive
 secretary of the board of elections of the county of my residence prior to 6:00
 p.m. on the day before the election in which they shall be cast.

This _____ day of _____, 19 ____.

(Voter's name and signature; if application is requested by other person than voter, that person should write the voter's name on the above line)	(address to which ballots are to be delivered)
---	---

(Name and signature of near relative of voter if application sought by near relative)	(relationship of near relative to voter)
--	---

(Signature of person witnessing application)	(address of witness)
---	----------------------

(The above application for absentee ballots may be completed and signed on
 behalf of the voter applying for absentee ballots by any one of his or her near
 relatives as follows: spouse, parent, child, grandparent, grandchild, brother, or
 sister.)

I, the undersigned, certify that I am the (fill in appropriate
 box with cross "X" mark):

- | | |
|---|---|
| <input type="checkbox"/> Parent
<input type="checkbox"/> Grandparent
<input type="checkbox"/> Brother | <input type="checkbox"/> Spouse
<input type="checkbox"/> Child
<input type="checkbox"/> Grandchild
<input type="checkbox"/> Sister |
|---|---|

of the voter applying for absentee ballots and that I have been authorized by
 that person to make application on his or her behalf for absentee ballots for the
 primary or election identified in the application.

_____ (date) _____ (signature)

(2) Absence for sickness or physical disability occurring before 6:00 p.m. on
 the Wednesday prior to the primary or general election. A voter expecting to be
 unable to go to the voting place to vote in person on primary or general election
 day because of his sickness or other physical disability, or his near relative shall
 make written application for absentee ballots to the chairman of the board of
 elections of the county in which the voter is registered not earlier than 60 days
 nor later than 6:00 p.m. on the Wednesday before the election. The application

shall be submitted in the form set out at the end of this subdivision upon a copy which shall be furnished the voter or a near relative by the chairman of the county board of elections.

The application shall be signed by the voter personally, or it shall be signed by a near relative. The application shall be signed in the presence of a witness, who shall sign his name in the place provided on the form.

The application form, when properly filled out, shall be transmitted by mail or delivered in person by the applicant or a near relative to the chairman or executive secretary of the county board of elections of the county in which the applicant is registered.

The form for use in applying for absentee ballots under this subdivision shall be as follows:

APPLICATION FOR BALLOTS BY VOTER WHO EXPECTS TO BE UNABLE TO GO TO VOTING PLACE ON PRIMARY OR GENERAL ELECTION DAY BECAUSE OF SICKNESS OR PHYSICAL DISABILITY OCCURRING PRIOR TO 6:00 P.M. ON THE WEDNESDAY BEFORE THE PRIMARY OR GENERAL ELECTION.

(Anyone who falsifies this statement is subject to a fine or imprisonment, or both.)

Application No. _____ issued to _____

(This line shall be filled out before application is issued.)

State of North Carolina

County of _____

I, _____, certify that I am a registered voter residing in _____ precinct, _____ township, in the County of _____, North Carolina, and that I am lawfully entitled to vote in that precinct at the primary, general or bond election to be held therein on the _____ day of _____, 19 _____; that by reason

of sickness or physical disability, to wit: _____

(Insert here statement of nature of illness or disability.)

I will be unable to travel from my home or place of confinement to the voting place in my precinct on election day.

I hereby make application for an official ballot or ballots on which I may vote at the primary, general or bond election specified. I will return the ballot or ballots by mail or will deliver it in person or cause it to be delivered as authorized by law to the chairman or executive secretary of the board of elections of the county of my residence prior to 6:00 p.m. on the day before the election in which they shall be cast.

This _____ day of _____, 19 _____.

(Voter's name and signature; if application is requested by other person than voter, that person should write the voter's name on the above line) _____ (address to which ballots are to be delivered)

(Name and signature of near relative of voter if application sought by _____ (relationship of near relative to voter)

near relative)

(signature of person witnessing
application)

(address of witness)

(The above application for absentee ballots may be completed and signed on behalf of the voter applying for absentee ballots by any one of his or her near relatives as follows: spouse, parent, child, grandparent, grandchild, brother, or sister.)

I, the undersigned, certify that I am the (fill in appropriate
box with cross "X" mark):

() Spouse

() Parent

() Child

() Grandparent

() Grandchild

() Brother

() Sister

of the voter applying for absentee ballots and that I have been authorized by that person to make application on his or her behalf for absentee ballots for the primary or election identified in the application.

_____(date) _____(signature)

(3) Absence for sickness or physical disability occurring after 6:00 p.m. on the Wednesday prior to primary or general election. A voter expecting to be unable to go to the voting place to vote in person on primary or general election day because of sickness or other disability occurring after 6:00 p.m. on the Wednesday before the election, or a near relative, shall make written application for absentee ballots to the chairman of the board of elections of the county in which he is registered not later than 10:00 a.m. on the day preceding the election. The application shall be submitted in the form set out at the end of this subdivision upon a copy which shall be furnished the voter or a near relative by the chairman of the county board of elections.

The chairman of the county board of elections shall not issue or accept an application under the provisions of this subdivision later than 10:00 a.m. on the day preceding the primary or general election in which the voter seeks to vote.

The application shall be signed by the voter personally, or it shall be signed by a near relative. The application shall be signed in the presence of a witness who shall sign his name in the place provided on the form.

The certificate printed on the application form below the signatures of the applicant and his subscribing witness shall be filled in and signed in the presence of a witness by a licensed physician who is attending the applicant. The witness to the physician's certificate shall sign his name in the place provided on the form.

The application form, when properly filled out, signed by or for the applicant in the presence of a subscribing witness as provided in this subdivision, and certified and signed by the attending physician in the presence of a subscribing witness, may be transmitted by mail to the chairman or executive secretary of the board of elections of the county in which the applicant is registered, or it may be delivered to the chairman or executive secretary in person by the applicant or by his near relative.

The form for use in applying for absentee ballots under this subdivision shall be as follows:

APPLICATION FOR BALLOTS BY VOTER WHO EXPECTS TO BE
UNABLE TO GO TO VOTING PLACE ON PRIMARY OR GENERAL

ELECTION DAY BECAUSE OF SICKNESS OR PHYSICAL DISABILITY OCCURRING AFTER 6:00 P.M. ON THE WEDNESDAY BEFORE THE ELECTION AND CERTIFICATE OF ATTENDING PHYSICIAN.

(Anyone who falsifies this statement is subject to a fine or imprisonment, or both.)

Application No. _____ issued to _____

(This line shall be filled out before application is issued.)

State of North Carolina

County of _____

I, _____, certify that I am a registered voter residing in _____ precinct, _____ township, in the County of _____, North Carolina, and that I am lawfully entitled to vote in that precinct at the primary, general or bond election to be held therein on the _____ day of _____, 19____; that by reason of sickness or physical disability occurring since 6:00 p.m. on the Wednesday before that election, I will be unable to travel from my home or place of confinement to the voting place in my precinct on election day.

I hereby make application for an official ballot or ballots on which I may vote at the primary, general or bond election specified. I will transmit the ballot or ballots to the chairman or executive secretary of the board of elections of the county of my residence prior to 6:00 p.m. on the day prior to the election.

This _____ day of _____, 19____.

(Voter's name and signature;
if application is requested by
other person than voter, that
person should write the voter's
name on the above line)

(address to which ballots are
to be delivered)

(Name and signature of
near relative of voter if
application sought by
near relative)

(relationship of near relative
to voter)

(Signature of person witnessing
application)

(address of witness)

(The above application for absentee ballots may be completed and signed on behalf of the voter applying for absentee ballots by any one of his or her near relatives, as follows: spouse, parent, child, grandparent, grandchild, brother, or sister.)

I, the undersigned, certify that I am the (fill in appropriate box with cross "X" mark):

() Spouse

() Parent

() Child

() Grandparent

() Grandchild

() Brother

() Sister

of the voter applying for absentee ballots and that I have been authorized by

that person to make application on his or her behalf for absentee ballots for the primary or election identified in the application.

_____ (date) _____ (signature)

Physician's Certificate

State of _____

County of _____

I, _____, certify that I am a physician, duly licensed to practice medicine in the State of _____; that I have examined _____ (insert applicant's name) on _____ (insert date) for an illness

or physical disability occurring since 6:00 p.m. on the Wednesday prior to the primary or general election to be held on the _____ day of _____, 19_____, and that I believe that he (or she) will be physically incapable of being at the voting place at that election for the following reasons:

_____ (insert reasons in space provided).

This _____ day of _____, 19_____.

(Signature of physician)

(Address of physician)

Witness: _____

(Signature of person witnessing signing of certificate)

(Address of witness)

(4) Application forms issued by chairman of county board of elections. The chairman of the county board of elections shall be sole custodian of all absentee ballot application forms. In accordance with one of the following two procedures, he shall issue and deliver a single application form, upon request, to a person authorized to sign such an application under the provisions of this section:

- a. He may deliver the form to a voter personally or to his near relative at the office of the county board of elections for the voter's own use; or
- b. He may mail the form to a voter for his own use upon receipt of a written request from the voter or his near relative.

At the time he issues an application form, the chairman, secretary or executive secretary of the county board of elections shall number it and write the name of the voter in the space provided therefor at the top of the form. At the same time the chairman, secretary or executive secretary shall insert the name of the voter and the number assigned his application in the Register of Absentee Ballot Applications and Ballots Issued provided for in G.S. 163-228. If the application is requested by the voter's near relative, the chairman, secretary or executive secretary also shall insert that person's name in the register after the name of the voter.

The chairman, secretary or executive secretary shall issue only one application form to a voter or his near relative unless a form previously issued is returned to the chairman, secretary or executive secretary and marked 'Void' by him. In such a situation, the chairman, secretary or executive secretary may issue another application form to the voter or a near relative, but he shall retain the voided application form in his records. If the application is requested by the

voter's near relative, the chairman, secretary or executive secretary shall write the name of the near relative on the index of near relatives applying for applications for absentee ballots; the index shall be in such form as may be prescribed or approved by the State Board of Elections, a separate index shall be maintained for each primary, general or special election in which absentee voting is allowed.

(5) Applications for absentee ballots transmitted by mail or in person. An application for absentee ballots shall be made and signed only by the voter desiring to use them or the voter's near relative and shall be valid only when transmitted to the chairman or executive secretary of the county board of elections by mail or delivered in person by the voter or his near relative.

(6) Who is authorized to request applications for absentee ballots. A voter may personally request an application for absentee ballots or may cause such request to be made through a near relative. For the purpose of this Article, 'near relative' means spouse, brother, sister, parent, grandparent, child, or grandchild.

(7) The form of application for person applying to vote in a primary under the provisions of this section shall be the same as the application now required under the provisions of this section for persons applying to vote in a general or county bond election except that the chairman or executive secretary of each county board of elections shall cause to be printed or stamped on the margin of the application the phrase 'I certify that I am now registered as an affiliate of the _____ party.' A line or space for the signature of the voter shall be provided. No voter shall be furnished ballots for voting in a primary except the ballots for candidates for nomination in the primary of the political party with which he is affiliated. The official registration records of the county in which the voter is registered shall be proof of the party, if any, with which the voter is affiliated.

(8) The county board of elections shall cause to be stamped or printed on the face of each application for absentee ballots the following legend, and the blank space in the legend to be completed: "This application is issued for absentee ballots to be voted in the _____ (primary or general or county bond election) to be held in _____ County on the _____ day of _____, 19____." The county board of elections shall not issue any applications unless they bear the completed legend and it shall not issue any absentee ballots on the basis of any application that does not bear the completed legend.

"§ 163-227.1. *Second primary; applications for absentee ballots for voting in second primary.*—When a second primary is called, each county board of elections shall mail applications for absentee ballots for the second primary to all voters who voted by absentee ballot in the first primary. The board shall take this action automatically and no action on the part of any voter shall be first required by the board. The board shall complete this action within three days after a second primary is called. It shall mail the application for absentee ballots for the second primary to the address of the voter given in the application for absentee ballots for the first primary or to the voter's residence address if the person voted the absentee ballot pursuant to G.S. 163-227.2.

In addition, a voter entitled to absentee ballots under the provisions of this Article may apply for absentee ballots for a second primary not earlier than the day a second primary is called and not later than 6:00 p.m. on the Wednesday immediately preceding the second primary election date.

All procedures with respect to absentee ballots in a second primary shall be the same as with respect to absentee ballots in a first primary unless otherwise provided by this section.

“§ 163-227.2. *Alternate procedures for requesting application for absentee ballot, completing application for absentee ballot, and voting absentee ballot.*—

(a) A person expecting to be absent from the county in which he is registered during the entire period that the polls are open on the day of a statewide primary or general election or county bond election may request an application for absentee ballots, complete the application, receive the absentee ballots, vote and deliver them sealed in a container-return envelope to the county board of elections in the county in which he is registered under the provisions of this section.

(b) Not earlier than 60 days before a primary or general election or county bond election in which he seeks to vote and not later than 6:00 p.m. on the Wednesday before that election, the voter shall appear in person at the office of the county board of elections and request that the chairman, a member, or the executive secretary of the board furnish him with the application for absentee ballots called for under G.S. 163-227(1). The voter shall complete the application in the presence of the chairman, member or executive secretary of the board, and shall deliver the application to that person.

(c) If the application is properly filled out, the chairman, member or executive secretary shall enter the voter's name in the Register of Absentee Ballot Applications and Ballots Issued; shall furnish the voter with the instruction sheets called for by G.S. 163-229(c); shall furnish the voter with the ballots to which the application for absentee ballots applies; and shall furnish the voter with a container-return envelope. The voter thereupon shall comply with the provisions of G.S. 163-231(a) except that he shall deliver the container-return envelope to the chairman, member or executive secretary immediately after making and subscribing the affidavit printed on the container-return envelope as provided in G.S. 163-229(b). All actions required by this subsection (c) shall be performed in the office of the board of elections. For the purposes of this section only, the chairman, a member or the executive secretary of the county board of elections are authorized to administer the oath required for the affidavit on the container-return envelope; in such case, no seal shall be required, but the chairman, board member or executive secretary shall sign and indicate the official title held by him or her, and shall charge no fee of any voter for taking the acknowledgement required under this section.

(d) The chairman, member or executive secretary shall keep the voter's application for absentee ballots and the sealed container-return envelope in a safe place, separate and apart from other applications and container-return envelopes. At the first meeting of the board pursuant to G.S. 163-230(2) held after receipt of the application and envelope, the chairman shall comply with the requirements of G.S. 163-230(1) and G.S. 163-230(2) b and c. If the voter's application for absentee ballots is approved by the board at that meeting, the application form and container-return envelope, with the ballots enclosed, shall be handled in the same manner and under the same provisions of law as applications and container-return envelopes received by the board under other provisions of this Article. If the voter's application for absentee ballots is disapproved by the board, the board shall so notify the voter stating the reason for disapproval by first class mail addressed to the voter at his residence address

or at the address shown in the application for absentee ballots; and the board chairman shall retain the container-return envelope in its unopened condition until the day of the primary or election to which it relates and on that day he shall destroy the container-return envelope and the ballots therein, without, however, revealing the manner in which the voter marked the ballots.

“§ 163-228. *Register of absentee ballot applications and ballots issued; a public record.*—The State Board of Elections shall furnish the chairman of the board of elections in each county of the State with a book to be called the Register of Absentee Ballot Applications and Ballots Issued in which shall be recorded whatever information and official action may be required by this Article.

The Register of Absentee Ballot Applications and Ballots Issued shall constitute a public record and shall be opened to the inspection of any registered voter of the county at any time within 60 days before and 30 days after a statewide primary, general election or county bond election, or at any other time when good and sufficient reason may be assigned for its inspection.

“§ 163-229. *Absentee ballots, container-return envelopes, and instruction sheets.*—(a) Absentee ballot form. In accordance with the provisions of G.S. 163-230(3), persons entitled to vote by absentee ballot shall be furnished with regular official ballots; separate or distinctly marked absentee ballots shall not be used.

(b) Container-return envelope. In time for use not later than 60 days before a statewide primary, general election or county bond election, the county board of elections shall print a sufficient number of envelopes in which persons casting absentee ballots may transmit their marked ballots to the chairman of the county board of elections. Each container-return envelope shall be printed in accordance with the following instructions:

- (1) On one side shall be printed an identified space in which shall be inserted the application number of the voter and the following statement which shall be certified by one member of the county board of elections:

‘Certification of Election Official

The undersigned election official does by his hand and seal certify that _____ is a registered and qualified voter of _____ County Precinct # _____ and has made proper application to vote under the Absentee Ballot Law of North Carolina.

_____(SEAL)

Chairman-Member’

- (2) On the other side shall be printed the return address of the chairman of the county board of elections and the following affidavit:

‘Affidavit of Absentee or Sick Voter

State of _____

County of _____

I, _____, do solemnly swear that I am a resident and registered voter in _____ precinct, _____ County, North Carolina; that on the day of the primary, general or bond election, _____, 19____, (Check whichever of the following statements is correct.)

☐ I will be absent from the county in which I reside.

☐ Due to sickness or physical disability, or incarceration as a misdemeanor, I will be unable to travel to the voting place in the precinct in which I reside.

I further swear that I made application for absentee ballots, and that I marked the ballots enclosed herein, or that they were marked for me in my presence and according to my instructions.

(Signature of voter)

Sworn to and subscribed before me this _____ day of _____, 19____.

(Signature and seal of officer
administering oath)

My commission (if any) expires _____

(Title of officer)'

Note: The acknowledgment of a member of the armed forces of the United States may be taken before any commissioned officer or noncommissioned officer of the rank of sergeant in the army, petty officer in the navy, or equivalent rank in other branches of the armed forces.

(c) Instruction sheets. In time for use not later than 60 days before a statewide primary, general or county bond election, the county board of elections shall prepare and print a sufficient number of sheets of instructions on how voters are to prepare absentee ballots and return them to the chairman of the county board of elections.

"§ 163-230. *Consideration and approval of applications and issuance of absentee ballots.*—The procedure to be followed in receiving applications for absentee ballots, passing upon their validity, and issuing absentee ballots shall be governed by the provisions of this section.

(1) Record of applications received and ballots issued. Upon receipt of a voter's written application for absentee ballots the chairman of the county board of elections shall promptly enter in the Register of Absentee Ballot Applications and Ballots Issued so much of the following information as he has not already entered there under the provisions of G.S. 163-227(4):

- a. Name of voter applying for absentee ballots, and, if applicable, the name and address of the voter's near relative who applied for the application for absentee ballots.
- b. Number of assigned voter's application when issued. c. Precinct in which applicant is registered.
- d. Address to which ballots are to be mailed, or that the voter voted pursuant to G.S. 163-227.2.
- e. Reason assigned for requesting absentee ballots.
- f. Date application for ballots is received by chairman.
- g. The voter's party affiliation.

(2) Determination of validity of applications for absentee ballots. The county board of elections shall constitute the proper official body to pass upon the validity of all applications for absentee ballots received in the county; this function shall not be performed by the chairman or any other member of the board individually.

a. Required meetings of county board of elections.

During the period opening 60 days before a statewide primary, general election or county bond election and closing at 6:00 p.m. on the Wednesday before the election, the county board of elections shall hold public meetings on Monday and Friday of each week at 10:00 a.m., and it shall also hold public meetings at 10:00 a.m. on both the seventh, third and first days immediately preceding election day. These meetings shall be held at the county courthouse or at the elections board's office at the hour fixed by law. At these meetings the county board of elections shall pass upon applications for absentee ballots.

Upon a majority vote, the county board of elections may hold the required public meetings at an hour other than 10:00 a.m., and it may hold more than one session on each Monday and Friday it is required to meet and may set the hours of any additional sessions. If the board desires to exercise either or both of the options granted by the preceding sentence, it shall do so prior to the date on which it is required to hold its first public meeting under the provisions of this subdivision and in time to give the notice required by the fourth paragraph of this lettered portion of this subdivision; thereafter, no change shall be made in the hours fixed for the board's public meetings on absentee ballot applications.

It shall not be necessary for the chairman of the county board of elections to give notice to other board members of weekly meetings of the board which are fixed as to time and place by this section.

If the county board of elections changes the time of holding its Monday and Friday meetings or provides for additional meetings on Mondays and Fridays in accordance with the terms of this subdivision, notice of the change in hour and notice of the schedule of additional meetings, if any, shall be published in a newspaper circulated in the county, and a notice thereof shall be posted at the courthouse door of the county, at least one week prior to the time fixed for holding the first meeting under this subdivision.

The county board of elections shall not be required to hold any of the meetings prescribed by this subdivision unless, since its last preceding meeting, it actually has received one or more applications for absentee ballots which it has not passed upon. When no meeting is to be held for this reason, the chairman shall notify each of the other members of the county board of elections that the scheduled public meeting will not be held and state the reasons for its cancellation.

b. Procedure at required meeting; making determination. At each public meeting of the county board of elections the chairman shall present for consideration, and the board shall pass upon, the validity of all applications for absentee ballots received since its last preceding public meeting held for that purpose. In connection with each application received by mail the chairman shall also present the container envelope in which the application was received. At each such meeting any registered voter of the county shall be heard and allowed to present

evidence in opposition to, or in favor of, the issuance of absentee ballots to any voter making application for them.

The county board of elections may consider the registration records as evidence of the voter's signature, if available, and as any other evidence that may be necessary to pass upon such an application, including the party affiliation of a voter seeking to vote in a primary.

If the board finds that the applicant is a qualified voter of the county, that he is registered in the precinct stated in his application, that the assertions in his application are true, and that his application is in proper form, it shall approve his application for absentee ballots.

- c. Record of board's determination; decision final. At the time the county board of elections makes its decision on an application for absentee ballots, the chairman shall enter in the appropriate column in the Register of Absentee Ballot Applications and Ballots Issued opposite the name of the applicant a notation of whether his application was 'Approved' or 'Disapproved'. The decision of the board on the validity of an application for absentee ballots shall be final, subject only to such review as may be necessary in the event of an election contest.

(3) Delivery of absentee ballots and container-return envelope to applicant. When the county board of elections approves an application for absentee ballots, the chairman shall promptly issue and transmit them to the voter only, and not to his near relative, in accordance with the following instructions:

- a. On the top margin of each ballot the applicant is entitled to vote, the chairman shall write or type the words 'Absentee Ballot No. _____' and insert in the blank space the number assigned the applicant's application in the Register of Applications for Absentee Ballots and Ballots Issued. He shall not write, type, or print any other matter upon the ballots transmitted to the absentee voter.
- b. The chairman shall fold and place the ballots (identified in accordance with the preceding instruction) in a container-return envelope and write or type in the appropriate blanks thereon, in accordance with the terms of G.S. 163-229(b), the absentee voter's name, his application number, and the designation of the precinct in which his ballots are to be voted. The chairman shall leave the container-return envelope holding the ballots unsealed.
- c. The chairman shall then place the unsealed container-return envelope holding the ballots, together with printed instructions for voting and returning the ballots, in an envelope addressed to the applicant at the post-office address stated in his application, seal the envelope, and mail it at the expense of the county board of elections, or deliver it to the applicant in person: Provided, that in case of approval of an application received after 6:00 p.m. on the Wednesday before the election under the provisions of G.S. 163-227(3), in lieu of transmitting the ballots to the applicant in person or by mail, the chairman may deliver the sealed envelope containing the instruction sheet and the container-return envelope holding the ballots to a near relative of the voter.

"§ 163-231. *Voting absentee ballots and transmitting them to the chairman of county board of elections.*—(a) Procedure for voting absentee ballots. In the

presence of an officer authorized to administer oaths, having an official seal, the voter shall:

- (1) Mark his ballots, or cause them to be marked in his presence according to his instructions.
- (2) Fold each ballot separately, or cause each of them to be folded in his presence.
- (3) Place the folded ballots in the container-return envelope and securely seal it, or have this done in his presence.
- (4) Make and subscribe the affidavit printed on the container-return envelope according to the provisions of G.S. 163-229(b).

The officer administering the oath shall then complete the form on the container-return envelope and affix his seal, if any, in the place indicated. When thus executed, the sealed container-return envelope, with the ballots enclosed, shall be transmitted in accordance with the provisions of subsection (b) of this section to the chairman of the county board of elections who issued the ballots.

In the case of voters who are members of the armed forces of the United States, as defined in G.S. 163-245, the signature of any commissioned officer or noncommissioned officer of the rank of sergeant in the army, petty officer in the navy, or equivalent rank in other branches of the armed forces, as a witness to the execution of any certificate required by this or any other section of this Article to be under oath shall have the force and effect of the jurat of an officer with a seal fully authorized to take and administer oaths in connection with absentee ballots.

(b) Transmitting executed absentee ballots to chairman of county board of elections. The sealed container-return envelope in which executed absentee ballots have been placed shall be transmitted to the chairman of the county board of elections who issued them as follows: All ballots issued under the provisions of Articles 20 and 21 of this Chapter shall be transmitted by mail, at the voter's expense, or delivered in person, or by the voter's spouse, brother, sister, parent, grandparent, child, or grandchild not later than 6:00 p.m. on the day before the statewide primary or general election or county bond election. If such ballots are received later than that hour, they shall not be accepted for voting.

"§ 163-232. *Certified list of approved applications to be transmitted to State Board of Elections and posted; original applications to accompany list.*—The chairman of the county board of elections shall prepare a list, in quadruplicate, of all applications for absentee ballots received by him which have been approved by the county board of elections. At the end of the list he shall execute the following certificate under oath:

'State of North Carolina

County of _____

I, _____, Chairman of the _____
County Board of Elections, do hereby certify that the foregoing
is a list of all applications filed with me for absentee ballots
to be voted in the primary or general election or county bond
election on the _____ day of _____,

19____, which have been approved by the county board of elections.

I further certify that I have issued ballots to no other persons than those listed herein, whose original applications or original applications made by near relatives are enclosed to be filed with the State Board of Elections; and I further

certify that I have not delivered ballots for absentee voting to any person other than the voter himself, by mail or in person, except as provided by law in the case of approved applications received after 6:00 p.m. on the Wednesday before the election.

This the ____ day of _____, 19____.

(Signature of chairman of county
board of election)

Sworn to and subscribed before me this _____ day of
_____, 19____. Witness my hand and official seal.

(Signature of officer administering oath)

(Title of Officer)

Before noon on the day before a statewide primary, general election or county bond election, the chairman of the county board of elections shall send one copy of the list required by this section, together with the original of all applications for absentee ballots received by him, by registered mail to the chairman of the State Board of Elections, at Raleigh, North Carolina. He shall post one copy of the list at a conspicuous place at the county courthouse door, he shall deliver one copy to the registrar of each precinct for posting in a conspicuous place in the voting enclosure immediately upon the opening of the polls on the day of a statewide primary, general election or county bond election, and he shall retain the fourth copy for himself.

“§ 163-233. *Lists of absentee ballots; distribution.*—On the day of election, the chairman of the county board of elections shall prepare for each precinct a list, in quadruplicate, of all executed absentee ballots he has received. He shall cause two copies of the appropriate list to be delivered to the registrar of the precinct no later than 4:00 p.m. on election day. The county board of elections may call upon the sheriff of the county to distribute the list to the precincts.

The registrar shall post one copy of the list immediately in a conspicuous location in the voting place and retain one copy until all challenges of absentee ballots have been heard by the county board of elections. Challenges shall be made to absentee ballots as provided in G.S. 163-89. On election day the chairman shall mail to the State Board of Elections, Raleigh, North Carolina, one copy of each of the lists prepared under this section, and he shall retain one copy for his use.

After the last person has voted, the registrar shall call the name of each person recorded on the list and enter an ‘X’ in the appropriate place on the voter’s permanent registration record. If such person is already recorded as having voted in that election, the registrar shall enter a challenge.

“§ 163-233.1. *Withdrawal of absentee ballots not allowed.*—No person shall be permitted to withdraw an absentee ballot after such ballot has been mailed to or returned to the county board of elections.

“§ 163-234. *Counting absentee ballots by county board of elections.*—(a) All absentee ballots returned to the chairman or executive secretary of the county board of elections in the container-return envelopes shall be retained by the chairman to be counted by the county board of elections as herein provided.

(1) Only those absentee ballots returned to the county board of elections no

later than 6:00 p.m. on the day before election day in a properly executed container-return envelope shall be counted.

- (2) The county board of elections shall meet at 5:00 p.m. on the election day in the board office or other public location in the county courthouse for the purpose of counting all absentee ballots except those which have been challenged before 5:00 p.m. on election day. Any elector of the county shall be permitted to attend the meeting and allowed to observe the counting process, provided he shall not in any manner interfere with the election officials in the discharge of their duties.
- (3) The counting of absentee ballots shall not commence until a majority and at least one board member of each political party represented on the board is present and such fact is publicly declared and entered in the official minutes of the county board.
- (4) The county board of elections may employ such assistants as deemed necessary to count the absentee ballots, but each board member present shall be responsible for and observe and supervise the opening and tallying of the ballots.
- (5) As each ballot envelope is opened, the board shall cause to be entered into a pollbook designated 'Pollbook of Absentee Voters' the name of the absentee voter. Preserving secrecy, the ballots shall be placed in the appropriate ballot boxes, at least one of which shall be provided for each type of ballot.

After all ballots have been placed in the boxes, the counting process shall begin.

If a challenge transmitted to the board on canvass day by a registrar is sustained, the ballots challenged and sustained shall be withdrawn from the appropriate boxes, as provided in G.S. 163-89(e).

As soon as the absentee ballots have been counted and the names of the absentee voters entered in the pollbook as required herein, the board members and assistants employed to count the absentee ballots shall each sign the pollbook immediately beneath the last absentee voter's name entered therein. The chairman shall be responsible for the safekeeping of the Pollbook of Absentee Voters.

- (6) Upon completion of the counting process the board members shall cause the results of the tally to be entered on the absentee abstract provided by the State Board of Elections. The abstract shall be signed by the members of the board in attendance and the original mailed immediately to the State Board of Elections, Raleigh, North Carolina.
- (7) One copy of the absentee abstract shall be retained by the county board of elections and the totals appearing thereon shall be added to the final totals of all votes cast in the county for each office as determined on the official canvass.
- (8) In the event a political party does not have a member of the county board of elections present at the 5:00 p.m. meeting to count absentee ballots due to illness or other cause of the member, the counting shall not commence until the county party chairman of said absent member, or a member of the party's county executive committee, is in attendance. Such person shall act as an official witness to the counting and shall sign the absentee ballot abstract as an 'observer'.
- (9) The county board of elections shall retain all container-return

envelopes and absentee ballots, in a safe place, for at least four months, and longer if any contest is pending concerning the validity of any ballot.”

Sec. 2. G.S. 163-251 is amended:

Amend subsection (a)3 by deleting from lines 3 and 4 the words “appropriate precinct registrars for voting” and insert the words “county board of elections”.

Amend subsection (b) by rewriting the last two sentences in the first paragraph to read:

“The chairman shall deliver two copies of the list to the appropriate precinct registrar and retain one copy for the county board. The registrar shall post one copy in the voting place and retain one copy until all challenges of absentee ballots have been heard by the county board of elections. Challenges shall be made as provided in G.S. 163-89.

After the last person has voted, the registrar shall call the name of each person recorded on the list and enter an ‘A’ in the appropriate place on the voter’s permanent registration record, if any. If such person is already recorded as voting in that election, the registrar shall enter a challenge.”

Amend subsection (b) by deleting all of the second and third paragraphs thereof.

Add a new subsection (d) at the end of G.S. 163-251 to read:

“(d) Counting ballots, hearing challenges. The county board of elections shall count military ballots as provided for civilian absentee ballots in G.S. 163-234, and shall hear challenges as provided in G.S. 163-89.”

Sec. 3. G.S. 163-137(b) is amended by deleting “45” and inserting in lieu thereof “60” in the third line of that section.

Sec. 4. G.S. 163-89 is repealed and rewritten to read as follows:

“§ 163-89. *Procedures for challenging absentee ballots.*—(a) Time for Challenge. The absentee ballot of any voter may be challenged on the day of any statewide primary or general election or county bond election beginning no earlier than noon and ending no later than 5:00 p.m., or by the registrar at the time of closing of the polls as provided in G.S. 163-233 and G.S. 163-251(b).

(b) Who may challenge. Any registered voter of the same precinct as the absentee voter may challenge that voter’s absentee ballot.

(c) Form and nature of challenge. Each challenged absentee ballot shall be challenged separately. The burden of proof shall be on the challenger. Each challenge shall be made in writing and, if they are available, shall be made on forms prescribed by the State Board of Elections. Each challenge shall specify the reasons why the ballot does not comply with the provisions of this Article or why the absentee voter is not legally entitled to vote in the particular primary or election. The challenge shall be signed by the challenger.

(d) To whom challenge addressed; to whom challenge delivered. Each challenge shall be addressed to the county board of elections. It may be filed with the board at its offices or with the registrar of the precinct in which the challenger and absentee voter are registered. If it is delivered to the registrar, the registrar shall personally deliver the challenge to the chairman of the county board of elections on the day of the county canvass.

(e) Hearing procedure. All challenges filed under this section shall be heard by the county board of elections on the day set for the canvass of the returns. All

members of the board shall attend the canvass and all members shall be present for the hearing of challenges to absentee ballots.

Before the board hears a challenge to an absentee ballot, the chairman shall mark the word 'challenged' after the voter's name in the Register of Absentee Ballot Applications and Ballots Issued and in the Pollbook of Absentee Voters.

The board then shall hear the challenger's reasons for the challenge, and it shall make its decision without opening the container-return envelope or removing the ballots from it.

The board shall have authority to administer the necessary oaths or affirmations to all witnesses brought before it to testify to the qualifications of the voter challenged or to the validity or invalidity of the ballot.

If the challenge is sustained, the chairman shall mark the word 'sustained' after the word 'challenged' following the voter's name in the Register of Absentee Ballot Applications and Ballots Issued and in the Pollbook of Absentee Voters; the voter's ballots shall not be counted; and the container-return envelope shall not be opened but shall be marked 'Challenge Sustained'. All envelopes so marked shall be preserved intact by the chairman for a period of six months from canvass day or longer if any contest then is pending concerning the validity of any absentee ballot.

If the challenge is overruled, the absentee ballots shall be removed from the container-return envelopes and counted by the board of elections, and the board shall adjust the appropriate abstracts of returns to show that the ballots have been counted and tallied in the manner provided for unchallenged absentee ballots.

If the challenge was delivered to the board by the registrar of the precinct and was sustained, the board shall reopen the appropriate ballot boxes, remove such ballots, determine how those ballots were voted, deduct such ballots from the returns, and adjust the appropriate abstracts of returns.

Any voter whose ballots have been challenged may, either personally or through an authorized representative, appear before the board at the hearing on the challenge and present evidence as to the validity of the ballot."

Sec. 5. G.S. 163-252 and G.S. 163-235 are repealed.

Sec. 6. This act shall take effect July 1, 1973. No absentee voting shall be allowed in any county bond election between the date of ratification of this bill and July 1, 1973, in order that the State Board of Elections and county boards of elections may prepare for the new system provided in this act.

In the General Assembly read three times and ratified, this the 17th day of May, 1973.

H. B. 332

CHAPTER 537

AN ACT TO DEFINE A CONSOLIDATED CITY-COUNTY; TO AUTHORIZE THE GOVERNING BOARD OF A CONSOLIDATED CITY-COUNTY TO DEFINE, EXTEND, CONSOLIDATE AND ABOLISH URBAN SERVICE DISTRICTS; TO AUTHORIZE THE GOVERNING BOARD OF A CONSOLIDATED CITY-COUNTY TO LEVY TAXES WITHIN URBAN SERVICE DISTRICTS; AND TO SET FORTH THE DEBT LIMITS AND PROCEDURES FOR A CONSOLIDATED CITY-COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The General Statutes of North Carolina are amended by adding thereto a new Chapter to read as follows:

“Chapter 155. Consolidated City-County Act

“Article 1

“Title and Definition

“§ 155-1. *Title.*—This Act shall be cited as the ‘Consolidated City-County Act of 1973’ and is enacted pursuant to Article V, Section 2(4) of the North Carolina Constitution, effective July 1, 1973.

“§ 155-2. *Definitions.*—In this Chapter:

(1) ‘Consolidated city-county’ means any county where the largest municipality in the county has been abolished and its powers, duties, rights, privileges and immunities consolidated with those of the county. Other municipalities in the county, if any, may or may not have been abolished and their powers, duties, rights, privileges and immunities consolidated with those of the county.

(2) ‘Governing board’ means the governing board of a consolidated city-county.

“Article 2

“Defining Urban Service Districts

“§ 155-3. *Authority; purpose of districts.*—The governing board may define any number of urban service districts in order to finance, provide or maintain for the districts services, facilities and functions in addition to or to a greater extent than those financed, provided or maintained for the entire consolidated city-county.

“§ 155-4. *Definition of urban service districts to replace municipalities abolished at the time of consolidation.*—The governing board, by resolution, may define an urban service district within the boundaries of the largest municipality that existed in the county before consolidation and within the boundaries of any other municipality abolished at the time of the establishment of the consolidated city-county. Any urban service district so defined shall comprise the total area of the abolished municipality as it existed immediately before the effective date of consolidation. The resolution shall take effect upon its adoption.

“§ 155-5. *Definition of urban service districts to replace municipalities abolished subsequent to consolidation.*—The governing board, by resolution, may define an urban service district within the boundaries of any municipality within the consolidated city-county the citizens of which, subsequent to the establishment of the consolidated city-county, have voted in a referendum to abolish their municipality and consolidate its powers, duties, rights, privileges and immunities with those of the consolidated city-county. An urban service district so defined shall comprise the total area of the municipality as it existed immediately before the effective date of its abolition. The resolution shall take effect at the beginning of the fiscal year next occurring after its adoption.

“§ 155-6. *Definition of urban service districts where no municipality existed.*—(a) Standards. The governing board, by resolution, may define an urban service district upon finding that a proposed district:

- (1) has a resident population of at least 1,000;
 - (2) has a resident population density of at least one person per acre;
 - (3) has an assessed valuation of at least two and one-half million dollars;
 - (4) requires one or more of the services, facilities and functions that are provided or maintained only or to a greater extent for an urban service district; and
 - (5) does not include any territory within an active incorporated municipality.
- (b) Report. Prior to the public hearing required by subsection (c), the consolidated city-county shall prepare a report containing:
- (1) a map of the proposed district, showing its proposed boundaries;
 - (2) a statement showing that the proposed district meets the standards of subsection (a); and
 - (3) a plan for providing urban services, facilities and functions for the district.

The report shall be available in the office of the clerk of the consolidated city-county for at least two weeks prior to the date of the public hearing.

(c) Hearing and Notice. The governing board shall hold a public hearing prior to adoption of any resolution defining a new urban service district. Notice of the hearing shall state the date, hour and place of the hearing and its subject, and shall include a statement that the report required by subsection (b) is available for inspection in the office of the clerk of the consolidated city-county. The notice shall be published in a newspaper of general circulation in the county at least once and not less than one week prior to the date of the hearing. In addition it shall be mailed at least four weeks prior to the date of the hearing to the owners as shown by the tax records of the consolidated city-county of all property located within the proposed district. The person designated by the governing board to mail the notice shall certify to the governing board that the mailing has been completed and his certificate shall be conclusive in the absence of fraud. The hearing may be held within the proposed district.

(d) Effective Date. The resolution defining an urban service district shall take effect at the beginning of a fiscal year commencing after its passage, as determined by the governing board.

“§ 155.7. *Extension of urban service districts.*—(a) Standards. The governing board, by resolution, may extend by annexation the boundaries of any urban service district upon finding that:

- (1) the area to be annexed is contiguous to the district, with at least one-eighth of the area's aggregate external boundary coincident with the existing boundary of the district;
- (2) the area to be annexed has a resident population density of at least one person per acre and an assessed valuation of at least one thousand dollars (\$1,000) per resident person; or the area to be annexed is so developed that at least sixty per cent (60%) of the total number of lots and tracts in the area at the time of annexation are used for residential, commercial, industrial, institutional or governmental purposes and at least sixty per cent (60%) of the total acreage of the area at the time of annexation is devoted to these uses; and
- (3) the area to be annexed requires the services, facilities or functions that are provided for the contiguous urban service district.

(b) Annexation by Petition. The governing board also, by resolution, may extend by annexation the boundaries of any urban service district when one hundred per cent (100%) of the real property owners of the area to be annexed have petitioned the governing board for annexation to the service district.

(c) Report. Prior to the public hearing required by subsection (d), the consolidated city-county shall prepare a report containing:

- (1) a map of the urban service district and the adjacent territory, showing the present and proposed boundaries of the district;
- (2) a statement showing that the area to be annexed meets the standards of subsection (a) or comes before the governing board by petition as provided by subsection (b); and
- (3) a plan for extending urban services, facilities and functions to the area to be annexed.

The report shall be available in the office of the clerk of the consolidated city-county for at least two weeks prior to the date for the public hearing.

(d) Hearing and Notice. The governing board shall hold a public hearing prior to adoption of any resolution extending the boundaries of an urban service district. Notice of the hearing shall state the date, hour and place of the hearing and its subject, and shall include a statement that the report required by subsection (c) is available for inspection in the office of the clerk of the consolidated city-county. Notice shall be published in a newspaper of general circulation in the county at least once and not less than one week prior to the date of the hearing. In addition notice shall be mailed at least four weeks prior to the date of the hearing to the owners as shown by the tax records of the consolidated city-county on all property located within the area to be annexed. The person designated by the governing board to mail the notice shall certify to the governing board that the mailing has been completed, and his certificate shall be conclusive in the absence of fraud.

(e) Effective Date. The resolution extending the boundaries of the district shall take effect at the beginning of a fiscal year commencing after its passage, as determined by the governing board.

(f) A consolidated city-county may not utilize the procedures of this section to annex to an urban service district territory within the boundaries of an active incorporated municipality.

“§155.8. *Consolidation of urban service districts.*—(a) Standards. The governing board, by resolution, may consolidate two or more urban service districts upon finding that:

- (1) the districts are contiguous or are in a continuous boundary; and
- (2) the provision or maintenance of urban services, facilities and functions for each of the districts is substantially the same; or
- (3) if the provision or maintenance of urban services, facilities and functions is lower for one of the districts, there is a need to increase those services, facilities and functions for that district. However, no urban service district providing electric or telephone services may be consolidated with any other urban service district unless the voters of the district providing these utility services approve the consolidation in a referendum held for that purpose. Any consolidated city-county may hold these referendums.

(b) Report. Prior to the public hearing required by subsection (c), the consolidated city-county shall prepare a report containing:

- (1) a map of the districts to be consolidated;
- (2) a statement showing the proposed consolidation meets the standards of subsection (a); and
- (3) if necessary, a plan for increasing the urban services, facilities and functions for one of the districts so that they are substantially the same throughout the consolidated district.

The report shall be available in the office of the clerk of the consolidated city-county for at least two weeks prior to the date of the public hearing.

(c) **Hearing and Notice.** The governing board shall hold a public hearing prior to adoption of any resolution consolidating urban service districts. Notice of the hearing shall state the date, hour and place of the hearing and its subject, and shall include a statement that the report required by subsection (b) is available for inspection in the office of the clerk of the consolidated city-county. Notice shall be published in a newspaper of general circulation in the county at least once and not less than two weeks prior to the date of the hearing. In addition, if the services, facilities and functions for one of the districts will be substantially increased as a result of the consolidation, notice shall be mailed at least four weeks prior to the date of the hearing to the owners as shown by the tax records of the consolidated city-county of all property located within the district. The person designated by the governing board to mail the notice shall certify to the governing board that the mailing has been completed and his certificate shall be conclusive in the absence of fraud.

(d) **Effective Date.** The consolidation of urban service districts shall take effect at the beginning of a fiscal year commencing after passage of the resolution of consolidation, as determined by the governing board.

“§ 155.9. Required provision or maintenance of services, facilities and functions.—(a) *New district.* When a consolidated city-county defines a new urban service district, it shall provide or maintain the services, facilities and functions for which the residents of the district are being taxed within a reasonable time, not to exceed one year, after the effective date of the definition of the district.

(b) **Extended District.** When a consolidated city-county annexes territory to an urban service district, it shall provide or maintain the services, facilities and functions provided or maintained throughout the district to the residents of the area annexed to the district within a reasonable time not to exceed one year, after the effective date of the annexation.

(c) **Consolidated District.** When a consolidated city-county consolidates two or more urban service districts, one of which has provided or maintained a lower level of urban services, it shall increase the services, facilities and functions within that district to a level comparable to those provided or maintained elsewhere in the consolidated district within a reasonable time, not to exceed one year, after the effective date of the consolidation.

*“§ 155-10. Abolition of urban service districts.—*Upon finding that there is no longer a need for a particular urban service district, the governing board, by resolution, may abolish that district. The governing board shall hold a public hearing prior to adoption of a resolution abolishing a district. Notice of the hearing shall state the date, hour and place of the hearing, and its subject, and shall be published in a newspaper of general circulation in the county at least once a week for two successive weeks prior to the date of the hearing. The

abolition of any urban service district shall take effect at the end of a fiscal year following passage of the resolution, as determined by the governing board.

“Article 3

“Levy of Taxes In Urban Service Districts

“§ 155-11. *Taxes authorized; limits.*—A consolidated city-county may levy the following taxes within defined urban service districts in addition to those levied throughout the county, in order to finance, provide or maintain for the districts services, facilities and functions in addition to or to a greater extent than those financed, provided or maintained for the entire county.

(1) Property Taxes. A consolidated city-county may levy within any urban service district a tax on property at a rate not to exceed one dollar and fifty cents on the one hundred dollars of appraised valuation. This rate limitation does not apply to property taxes levied (1) for debt service on general obligation bonds of the consolidated city-county, (2) for the support of the public schools or (3) for any purpose approved by a special vote of the people.

(2) Motor vehicle and taxicab license taxes. A consolidated city-county may levy within any urban service district the motor vehicle and taxicab license taxes authorized in G.S. 20-97.

(3) Privilege License Taxes. A consolidated city-county may levy within any urban service district privilege license taxes as authorized for cities and towns under the general law of the state.

“Article 4

“Allocation of Other Revenues

“§ 155-12. *Other allocation authorized.*—A consolidated city-county may allocate to any urban service district it creates any other revenues of the consolidated government whose use is not otherwise restricted by law.

“§ 155-13. *Authority to borrow money and issue bonds.*—A consolidated city-county may borrow money and issue its bonds under G.S. Chapter 159, Subchapter IV, and for those purposes shall be considered a unit of local government under Article 4 thereof and a municipality under Article 5 thereof. A consolidated city-county may borrow money and issue its bonds for any purpose for which either a city or a county may do so.

“§ 155-14. *Procedure for issuing general obligation and revenue bonds.*—In issuing its general obligation and revenue bonds, a consolidated city-county, except as expressly modified by this part, is subject to the provisions of Chapter 159 of the General Statutes of North Carolina.

If a proposed bond issue is required by law to be submitted to and approved by the voters of the consolidated government, and if the proceeds of the proposed bond issue are to be used in connection with a service, facility or function that is or, if the bond issue is approved, will be financed, provided or maintained only for one or more urban service districts, the proposed bond issue must be approved concurrently by a majority of those voting throughout the entire consolidated government and by a majority of the total of those voting in all the affected or to be affected urban service districts.

“§ 155-15. *Debt limitations.*—The net indebtedness in the form of general obligations of a consolidated city-county for school purposes may not exceed eight per cent (8%) of the appraised valuation of taxable property in the county. The net indebtedness in the form of general obligations of a consolidated city-county for all purposes other than for schools or water, sewerage, gas and electric purposes may not exceed eight per cent (8%) of the appraised valuation of

taxable property in the county. No other debt limitations applying to counties and municipalities in North Carolina apply to a consolidated city-county."

Sec. 2. G.S. 105-113.86 is amended by adding at the end thereof the following new subsection (v):

"(v) For purposes of subsection (b), the term municipality includes any urban service district defined by the governing body of a consolidated city-county, and the amount due thereby shall be distributed to the government of the consolidated city-county."

Sec. 3. G.S. 105-116 is amended by adding at the end thereof the following new subsection (v):

"(h) For purposes of subsection (g) and of G.S. 105-120(d), the term municipality includes any urban service district defined by the governing board of a consolidated city-county, and the amounts due thereby shall be distributed to the government of the consolidated city-county."

Sec. 4. G.S. 105-213 is amended by renumbering the present section as subsection (a) and adding a new subsection (b) as follows:

"(b) For purposes of this section, the term municipality includes any urban service district defined by the governing board of a consolidated city-county, and the amounts due thereby shall be distributed to the government of the consolidated city-county."

Sec. 5. Chapter 130 of the General Statutes is amended by adding a new article to read as follows:

"Article 3A

"Board of Health in a Consolidated City-County

"§ 130-23.1. *Board of Health established; membership.*—A consolidated city-county, as defined in the Consolidated City-County Act of 1973, has a Board of Health of three or more ex officio and four public members. The ex officio members, who may designate other persons to serve for them, are the mayor and the mayor pro tempore of the consolidated city-county and the superintendents of each school system within the consolidated city-county. The four public members include a licensed physician, a pharmacist, a dentist, and a public-spirited citizen. The governing board of the consolidated city-county appoints the public members, who serve four-year staggered terms, beginning on January 1. Public members shall be qualified voters of the consolidated government and shall receive compensation and allowances, if any, as set by the governing board of the consolidated government. Vacancies in the public membership on the Board of Health shall be filled by the governing board of the consolidated city-county for the unexpired term. The governing board may remove any public member for cause.

"§ 130-23.2. *Transition from county board of health.*—Members of the county board of health serving at the date of the establishment of any consolidated city-county are the initial members of the consolidated city-county board of health. Public members serving at the date of the establishment of any consolidated city-county shall serve terms ending on the January 1 immediately preceding the date on which their terms would have expired except for this section.

"§ 130-23.3. *Officers and procedures.*—(a) Officers. At its initial meeting and in January of each subsequent year, the board of health shall elect a chairman and may elect other officers. The director of the department of public health shall serve as secretary to the board of health.

(b) Meeting procedures. A majority of the members of the board of health constitutes a quorum. The board of health may determine its own rules of procedure.

(c) Management of funds. The board of health is subject to the fiscal control and budgeting procedures of the consolidated city-county.

“§ 130-23.4. *Applicable law*.—Except as provided in this Article, the provisions of Article 3 of this chapter apply to the board of health of a consolidated city-county.”

Sec. 6. G.S. 136-41.1 is amended by renumbering the present section as subsection (a) and adding a new subsection (b) as follows:

“(b) For purposes of this section and of G.S. 136-41.2 and 136-41.3, urban service districts defined by the governing board of a consolidated city-county in which street services are provided by the consolidated city-county shall be considered eligible municipalities, and the allocations to be made thereby shall be made to the government of the consolidated city-county.”

Sec. 7. Article 3A of Chapter 136 of the General Statutes is amended by adding a new section as follows:

“§ 136-66.6. *Arrangements in a consolidated city-county*.—The provisions of this article applying to municipalities apply to each consolidated city-county with respect to each urban service district defined by its governing board that includes the total area of a previously existing municipality in the same manner as if the urban service district were a municipality. The provisions of this article do not apply to any consolidated city-county with respect to an urban service district defined by its governing board within previously unincorporated areas of the county unless the governing board determines that street services are to be provided within such urban service district.”

Sec. 8. If any provisions of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 9. This act shall become effective on July 1, 1973.

In the General Assembly read three times and ratified, this the 17th day of May, 1973.

H. B. 519

CHAPTER 538

AN ACT AUTHORIZING COUNTIES TO REGULATE ACTIVITIES IN THE ATLANTIC OCEAN.

The General Assembly of North Carolina enacts:

Section 1. General Statute 153-9 is hereby amended by renumbering subdivision “(55)” to “(55a)” and adding a new subdivision (55b) as follows:

“(55b) *To adopt ordinances to regulate swimming, surfing and littering*.—To adopt ordinances to regulate and control swimming, surfing and littering in the Atlantic Ocean adjacent to that portion of the county lying outside the extraterritorial jurisdiction of an incorporated city; provided, however, such ordinances shall not conflict in any way with the law of this State or the United States; and further provided nothing contained herein shall be construed to permit any county to prohibit altogether swimming and surfing or to make these activities unlawful.”

Sec. 2. This act shall apply only to the counties of Brunswick, Carteret, Currituck, Dare, Hyde, New Hanover, Onslow and Pender.

Sec. 3. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 17th day of May, 1973.

H. B. 520

CHAPTER 539

AN ACT AUTHORIZING THE CITIES TO REGULATE ACTIVITIES IN THE ATLANTIC OCEAN.

The General Assembly of North Carolina enacts:

Section 1. Chapter 160A of the General Statutes is hereby amended by adding a new section to read as follows:

“§ 160A-176.1. *Ordinances effective in Atlantic Ocean.*—A city may adopt ordinances to regulate and control swimming, surfing and littering in the Atlantic Ocean adjacent to that portion of the city within its boundaries or within its extraterritorial jurisdiction; provided, however, nothing contained herein shall be construed to permit any city to prohibit altogether swimming and surfing or to make these activities unlawful.”

Sec. 2. This act shall apply only to cities in the counties of Brunswick, Carteret, Currituck, Dare, Hyde, New Hanover, Onslow, and Pender.

Sec. 3. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 17th day of May, 1973.

H. B. 275

CHAPTER 540

AN ACT TO MAKE CLARIFYING AND TECHNICAL CHANGES IN REGARD TO CONTROLLED SUBSTANCES AND TO REPEAL G.S. 90-113.

The General Assembly of North Carolina enacts:

Section 1. Subsection (2) of G.S. 14-401.11(a) is hereby rewritten to read as follows:

“(2) Any controlled substance included in any schedule of the Controlled Substances Act, or”.

Sec. 2. Subdivision (15) of G.S. 90-87 is hereby rewritten to read as follows:

“(15) ‘Manufacture’ means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance by any means, whether directly or indirectly, artificially or naturally, or by extraction from substances of a natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis; and ‘manufacture’ further includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled substance by an individual for his own use or the preparation, compounding, packaging, or labeling of a controlled substance:

a. By a practitioner as an incident to his administering or dispensing of a controlled substance in the course of his professional practice, or

b. By a practitioner, or by his authorized agent under his supervision, for the purpose of, or as an incident to research, teaching, or chemical analysis and not for sale."

Sec. 3. Subsection a. of G.S. 90-87(22) is hereby amended by striking out the words "in the" as they appear immediately after the words "administer a controlled substance" and immediately before the words "course of professional practice" and substituting therefor the words "so long as such activity is within the normal".

Sec. 4. Subsection b. of G.S. 90-87(22) is hereby amended by striking out the words "in the" as they appear immediately after the words "administer a controlled substance" and immediately before the words "course of professional practice" and substituting therefor the words "so long as such activity is within the normal".

Sec. 5. Subsection (a) of G.S. 90-91 is hereby repealed and subsections (b) through (i) of G.S. 90-91 are hereby redesignated as (a) through (h), respectively.

Sec. 6. Subsection (c) of G.S. 90-90 is hereby rewritten to read as follows:

"(c) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system unless specifically exempted or listed in another schedule:

1. Amphetamine, its salts, optical isomers, and salts of its optical isomers.
2. Phenmetrazine and its salts.
3. Methamphetamine, including its salts, isomers, and salts of isomers.
4. Methylphenidate."

Sec. 7. G.S. 90-113 is hereby repealed, but this repealer does not apply to any violation of G.S. 90-113 committed prior to the effective date of this act.

Sec. 8. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of May, 1973.

H. B. 393

CHAPTER 541

AN ACT TO PROVIDE FOR A CLASSIFICATION OF "EXEMPT" SUBSTANCES UNDER THE NORTH CAROLINA CONTROLLED SUBSTANCES ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-88 is hereby amended by adding a new subsection(g) as follows:

"(g) The North Carolina State Board of Health shall similarly exempt from the provisions of this Article any chemical agents and diagnostic reagents not intended for administration to humans or other animals, containing controlled substances which either (1) contain additional adulterant or denaturing agents so that the resulting mixture has no significant abuse potential, or (2) are packaged in such a form or concentration that the particular form as packaged has no significant abuse potential, where such substance was exempted by the Federal Bureau of Narcotics and Dangerous Drugs."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of May, 1973.

H. B. 394**CHAPTER 542****AN ACT TO PROVIDE THE PROCEDURE TO BE USED FOR FORFEITURES UNDER THE NORTH CAROLINA CONTROLLED SUBSTANCES ACT.**

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-112 is amended by adding a subsection (f) to read as follows:

“(f) All conveyances subject to forfeiture under the provisions of this Article shall be forfeited as in the case of conveyances used to conceal, convey, or transport intoxicating beverages.”

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of May, 1973.

H. B. 443**CHAPTER 543****AN ACT TO PROVIDE FOR ADDITIONAL POWERS FOR COMMITTEES OF THE GENERAL ASSEMBLY.**

The General Assembly of North Carolina enacts:

Section 1. Chapter 120 of the General Statutes is hereby amended by inserting therein a new Article 5A “Committee Activity.” to read as follows:

“Article 5A

Committee Activity.

“§ 120-19.1. *Hearings; examination of witnesses; counsel.*—(a) Committees of either the House or Senate of the General Assembly of North Carolina may hold separate or joint hearings, call witnesses, and compel testimony relevant to any bill, resolution or other matter properly before the committee.

(b) Witnesses may be examined under oath.

(c) When any person is examined before a committee, any member wishing to ask a question must address it to the chairman or presiding officer, who repeats the question or directs the witness to answer the member's question. Staff members or counsel employed by the committee may propound questions to the chairman for a witness to answer.

(d) Objections to the propriety of a question are directed to the committee as a whole. The committee must determine whether the objection is to be sustained or overruled by majority vote of the committee.

(e) When any witness is examined under oath, the proceedings must be taken and transcribed verbatim. Upon request, a witness must be furnished a copy of the transcript of his appearance before the committee.

(f) Witnesses may be accompanied by their own counsel for the purpose of advising them concerning their rights.

“§ 120-19.2. *Witnesses invitations; subpoena.*—(a) Committees of the General Assembly may invite witnesses to appear and testify concerning pending legislation or other matters properly before the committee and may require the attendance of witnesses by subpoena as hereinafter provided. The committee may submit questions in writing to the witness in advance of his appearance.

Witnesses may be permitted, in the discretion of the committee, to submit written, sworn statements in addition to or in lieu of sworn oral testimony before the committee.

(b) Hearings and examinations of witnesses concerning pending legislation or other appropriate matter may be conducted during sessions of the General Assembly, during recesses, and in the interim period between sessions, at such times as committees are authorized to convene.

(c) A subpoena for the purpose of obtaining the testimony of a witness may be issued by the chairman of a committee, upon authorization of the Speaker of the House or the Speaker pro tempore of the House for House Committees, and the President of the Senate or the President pro tempore of the Senate for Senate Committees, and by majority vote of the committee. A subpoena for the purpose of obtaining the testimony of a witness before a joint committee of the House and Senate may be issued by the joint action of the co-chairmen of the joint committee, upon authorization of one of the above officers from each house and by majority vote of the joint committee. The subpoena shall be signed by the committee chairman and either the Speaker of the House, the President of the Senate, the President pro tempore of the Senate, or the Speaker pro tempore of the House and shall be directed to the witness, and state the name of the witness, and a description of any papers, documents, or records that he is required to bring with him; and the subpoena shall state the subject matter of the hearing before the committee, the name of the committee, and the name and address of the committee chairman; and the subpoena shall also clearly designate the date, time, and place at which the witness's presence is required.

(d) Any witness shall have five days notice of hearing, unless waived by the witness, and subpoenas may be served by a member of the State Bureau of Investigation, the State Highway Patrol, or within their respective jurisdiction by any sheriff or deputy, or any municipal police officer or other law enforcement officer. In addition, a subpoena may be served in the manner provided for service of subpoenas under the North Carolina Rules of Civil Procedure.

(e) The form of subpoena shall generally follow the practice in the General Court of Justice in North Carolina with such additional information or modification as shall be approved by the Legislative Services Commission.

(f) Return of the subpoena shall be to the Legislative Services Officer, where a permanent record shall be maintained for five years, and one copy of the subpoena shall be immediately filed with the committee chairman and one copy transmitted to the Speaker of the House, the President of the Senate, the President pro tempore of the Senate, or the Speaker pro tempore of the House, as the case may be.

“§ 120-19.3. *Witness fees and expenses.*—Witnesses subpoenaed to testify before a committee of either house of the General Assembly or a joint committee of the General Assembly shall be entitled to the same fees and expenses as are allowable for witnesses in criminal proceedings in the Superior Court Division of the General Court of Justice.

“§ 120-19.4. *Failure to respond punishable as contempt.*—(a) Failure by any person without adequate cause to obey a subpoena served upon him may be deemed a contempt and shall be punishable as for contempt upon complaint by the committee, as in the case of a civil contempt. The proceeding for punishment for such contempt shall be as in the case of a contempt before an

administrative agency or under such other procedure as is authorized by the laws of the state.

(b) Failure or refusal by any witness to testify, without just cause, may also be deemed a civil contempt. Any witness or other person whose action in the immediate presence of the committee directly tends to disrupt its proceedings may also be subject to civil contempt proceedings.

“§ 120-19.5. *Committee staff assistance.*—Upon a certificate of need from the Speaker of the House, the President of the Senate, the President pro tempore of the Senate, or the Speaker pro tempore of the House and upon request of the committee chairman, the Legislative Services Officer is authorized to assign to any standing committee having interim research, drafting, or hearing assignment one or more members of his staff who shall function as research assistant and counsel to the committee when needed.

“§ 120-19.6. *Interim committee activity; rules.*—(a) Upon a general directive by resolution of the house in question or upon a specific authorization of either the Speaker of the House, President of the Senate, President pro tempore of the Senate or the Speaker pro tempore of the House, any standing committee, select committee or subcommittee of either House of the General Assembly is authorized to meet in the interim period between sessions or during recesses of the General Assembly to consider specific bills or resolutions or other matters properly before the committee. No particular form of authority is needed, but this section is intended to promote better coordination by having a system of authorization for meetings of the committees of the General Assembly between sessions or during recesses. Meetings will be held in Raleigh, but with the approval of the Speaker or Speaker pro tempore, a House committee may meet elsewhere; and with the approval of the President or President pro tempore, a Senate committee may meet elsewhere. In addition, committees may meet at such places as authorized by specific resolution or action of either body of the General Assembly.

(b) In all other respects, committees shall function in the interim period between sessions or during recesses in the same manner and under the rules generally applicable to committees of the house in question of the General Assembly during the session of the General Assembly.

(c) Any committee during the interim period that meets upon specific authorization of the Speaker of the House, President of the Senate, President pro tempore of the Senate or Speaker pro tempore of the House shall limit its activities to those matters contained in the authorization, and shall suspend its activities upon written directive of such officer. Any interim committee that meets upon a directive by resolution of the house in question of the General Assembly shall limit its activities to those matters contained in the authorization.

“§ 120-19.7. *Subcommittees.*—By consent and approval of a majority of any committee, the chairman may designate a subcommittee of not less than five persons to conduct hearings, call witnesses, and inquire into any matters properly before the committee. A duly constituted subcommittee shall have all of the powers of the full committee, but any subcommittee shall cease its activities upon majority vote of the full committee, or as provided in 120-19.6.

“§ 120-19.8. *Limitation by resolution of either house.*—The provisions of G.S. 120-19.5 pertaining to staff assistance and the provisions of G.S. 120-19.6 pertaining to interim committee activity shall not apply to the House if the

House by rule or resolution shall adopt an alternate method of staff assistance or interim committee activity and shall not apply to the Senate if the Senate by rule or resolution shall adopt an alternate method of staff assistance or interim committee activity. Either House of the General Assembly shall have the right to determine any matter concerning the scope of its internal procedure by appropriate rule or resolution without the joinder of the other."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of May, 1973.

H. B. 456

CHAPTER 544

AN ACT TO AUTHORIZE EXPENDITURES FOR NURSING HOME CARE FOR THE MEDICALLY NEEDY DURING THE LAST FOUR MONTHS OF THE 1972-73 FISCAL YEAR.

Whereas, an emergency situation has arisen in that needed nursing home care is not being provided to some persons; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Provisions of the 1971 Appropriations Act (Chapter 708) to the contrary notwithstanding, the Department of Human Resources, Office of Social Services, is hereby authorized to expend, from appropriations available in the 1972-73 fiscal year, amounts necessary to pay the cost of the entire nonfederal share of skilled nursing home care, which care shall be rendered on and after March 1, 1973, through June 30, 1973, for eligible medically needy persons; provided, however, that the total allowable cost per recipient per day shall not exceed eighteen dollars and fifty cents (\$18.50).

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of May, 1973.

H. B. 460

CHAPTER 545

AN ACT TO CREATE A NORTH CAROLINA APPALACHIAN TRAIL SYSTEM AND TO PROVIDE FOR THE DESIGNATION, ACQUISITION, ADMINISTRATION, AND REGULATION OF RECREATION, SCENIC AND CONNECTING OR SIDE TRAILS AND TRAIL RIGHTS-OF-WAY.

The General Assembly of North Carolina enacts:

Section 1. Short title.—This act may be cited as the North Carolina Appalachian Trails System Act.

Sec. 2. Policy and purpose.—(a) In order to provide for the ever-increasing outdoor recreation needs of an expanded population and in order to promote public access to, travel within, and enjoyment and appreciation of the open-air, outdoor areas of the State, the Appalachian Trail should be protected in North Carolina as a segment of the National Scenic Trails System.

(b) The purpose of this act is to provide the means for attaining these objectives by instituting a North Carolina Appalachian Trail System, designating the Appalachian Trail lying or located in the North Carolina counties of Avery, Mitchell, Yancey, Madison, Haywood, Swain, Graham, Macon, and Clay, as defined in the Federal Register of the National Trails Act

as the basic component of that system, and by prescribing the methods by which, and standards according to which, additional connecting trails may be added to the system.

Sec. 3. *Appalachian Trails System; connecting or side trails; coordination with the National Trails System Act.*—(a) Connecting or side trails may be established, designated and marked as components of the Appalachian Trail System by the Department of Natural and Economic Resources in consultation with the federal agencies charged with the responsibility for the administration and management of the Appalachian Trail in North Carolina. Criteria and standards of establishment will coincide with those set forth in the National Trails System Act (PL 90-543).

Sec. 4. *Assistance under this act with the National Trails System Act (PL 90-534).*—(a) The Department of Administration in cooperation with other appropriate State departments shall consult with the federal agencies charged with the administration of the Appalachian Trail in North Carolina and develop a mutually agreeable plan for the orderly and coordinated acquisition of Appalachian Trail right-of-way and the associated tracts, as needed, to provide a suitable environment for the Appalachian Trail in North Carolina.

(b) The Department of Natural and Economic Resources and the federal agencies charged with the responsibility of the administration of the Appalachian Trail in North Carolina shall give due consideration to the conservation of the environment of the Appalachian Trail and, in accordance with the National Trails System Act, may obtain advice and assistance from local governments, Carolina Mountain Club, Natchala Hiking Club, Piedmont Appalachian Trail Hikers, Appalachian Trail Conference, other interested organizations and individuals, land owners and land users concerned.

(c) The North Carolina State Highway Commission shall cooperate and assist in carrying out the purposes of this act and the National Trails System Act where their highway projects cross or may be adjacent to any component of the Appalachian Trail System.

(d) Lands acquired by the State of North Carolina within the 200 feet right-of-way of the Appalachian Trail and within the exterior boundaries of the Pisgah or Natchala National Forests, will be conveyed to the United States Forest Service as the federal agency charged with the responsibility for the administration and management of the Appalachian Trail within these specific areas.

(e) Lands acquired by the State of North Carolina outside of the boundaries of the Appalachian Trail right-of-way will be administered by the appropriate State department in such a manner as to preserve and enhance the environment of the Appalachian Trail.

(f) In consultation with the Department of Natural and Economic Resources, the federal agency charged with the responsibility of the administration of the Appalachian Trail in North Carolina shall establish use regulations in accordance with the National Trails System Act.

(g) The use of motor vehicles on the trails of the North Carolina Appalachian Trail System may be authorized when such use is necessary to meet emergencies or to enable adjacent landowners to have reasonable access to their lands and timber rights provided that the granting of this access is in accordance with

limitations and conditions of such use set forth in the National Trails System Act.

Sec. 5. *Acquisition of right-of-way and lands; manner of acquiring.*—The State of North Carolina may use lands for trail purposes within the boundaries of areas under its administration that are included in the rights-of-way selected for the Appalachian Trail System. The Department of Administration may acquire lands or easements by donation or purchase with funds donated or appropriated for such purpose.

Sec. 6. *Authorization of acquisition.*—The Department of Natural and Economic Resources is authorized to spend any federal, State, local or private funds available for this purpose to the Department for acquisition and development of the Appalachian Trail System.

Sec. 7. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of May, 1973.

H. B. 490

CHAPTER 546

AN ACT TO AMEND G.S. 20-116(g) TO EXEMPT FROM THE PROVISIONS THEREOF TRUCKS HAULING SILAGE OR OTHER FEED GRAIN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-116(g) is hereby amended by inserting at the end of the third paragraph thereof, immediately following the word "livestock" the words "or silage or other feed grain used in the feeding of poultry or livestock".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of May, 1973.

H. B. 538

CHAPTER 547

AN ACT TO AMEND G.S. 113-35 SO AS TO PROVIDE THAT FOREST TREE SEEDLINGS AND SEED MAY BE SOLD TO COMMERCIAL NURSERYMEN BY THE STATE UNDER CERTAIN CIRCUMSTANCES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-35, as the same appears in the 1971 Cumulative Supplement to Volume 3A of the General Statutes, is amended by rewriting the fourth sentence thereof to read as follows:

"When the State Forester determines that a surplus of seedlings or seed exists, this surplus may be sold, and such sale shall be in conformity with the following priority of sale: first, to agencies of the federal government for planting in the State of North Carolina; second, to commercial nurseries and nurserymen within this State; and third, without distinction, to federal agencies, to other states, and to recognized research organizations for planting either within or outside of this State."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of May, 1973.

H. B. 555

CHAPTER 548

AN ACT TO AMEND G.S. 104B-10 TO CORRECT A TECHNICAL ERROR.

The General Assembly of North Carolina enacts:

Section 1. G.S. 104B-10(a) is hereby amended by deleting therefrom the third sentence which reads:

"In the event that a shoreline protection officer grants a permit under this Article, any property owner whose property may be damaged by action taken under the permit or any interested State agency may within 30 days file an appeal with the board of county commissioners."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of May, 1973.

H. B. 570

CHAPTER 549

AN ACT TO LOWER THE NUMBER OF HOURS THAT MENTAL AND CORRECTIONAL INSTITUTION PERSONNEL CAN BE REQUIRED TO WORK DURING A GIVEN WEEK.

The General Assembly of North Carolina enacts:

Section 1. G.S. 95-28 is amended by deleting in line 8 the words and figures "eighty-four (84)" and inserting in lieu thereof the words and figures "seventy-two (72)".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of May, 1973.

H. B. 581

CHAPTER 550

AN ACT TO AMEND G.S. 18A-17(14) TO AUTHORIZE THE NEW HANOVER COUNTY ABC BOARD TO EXPEND UP TO 15% OF THE TOTAL PROFITS FOR LAW ENFORCEMENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 18A-17(14) is hereby amended by adding at the end of the first paragraph the following:

"The ABC Board of New Hanover County is hereby authorized to expend up to fifteen percent (15%) of the total profits to be determined by quarterly audits."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of May, 1973.

H. B. 666

CHAPTER 551

AN ACT TO PROVIDE BY GENERAL LAW FOR THE REGISTRATION OF VOTERS IN ANY AREA PROPOSED FOR INCORPORATION BY THE GENERAL ASSEMBLY.

The General Assembly of North Carolina enacts:

Section 1. A new section, G.S. 163-288.2, is inserted in the General Statutes, to read as follows:

“§ 163-288.2. *Registration of voters in area proposed for incorporation.*—(a) Whenever the General Assembly incorporates a new city and provides in the act of incorporation for a referendum on the question of incorporation or for a special election for town officials or for both, the board of elections of the county in which the proposed city is located shall determine those individuals eligible to vote in the referendum or special election. In determining the eligible voters the board may, in its discretion, use either of the following methods:

METHOD A.—The board of elections shall prepare a list of those registered voters residing within the proposed city. The board shall make this list available for public inspection in its office for a two-week period ending 21 days (excluding Saturdays and Sundays) before the day of the referendum or special election. During this period, any voter resident within the proposed city and not included on the list may cause his name to be added to the list. At least one week and no more than two weeks before the day the period of public inspection is to begin, the board shall cause notice of the list's availability to be posted in at least two prominent places within the proposed city and may cause the notice to be published in a newspaper of general circulation within the county. The notice shall state that the list has been prepared, that only those persons listed may vote in the referendum or special election, that the list will be available for public inspection in the board's office, and that any qualified voter not included on the list may cause his name to be added to the list during the two-week period of public inspection.

METHOD B.—The board of elections shall conduct a special registration of eligible persons desiring to vote in the referendum or special election. The registration records shall be open for a two-week period (except Sundays) ending 21 days (excluding Saturdays and Sundays) before the day of the referendum or special election. On the two Saturdays during that two-week period, the records shall be located at the voting place for the referendum or special election; on the other days it may, in the discretion of the board, be kept at the voting place, at the office of the board, or at the place of business of a person designated by the board to conduct the special registration. At least one week and no more than two weeks before the day the period of special registration is to begin, the board shall cause notice of the registration to be posted in at least two prominent places within the proposed city and may cause the notice to be published in a newspaper of general circulation within the county. The notice shall state the purpose and times of the special registration, the location of the registration records, and that only those persons registered in the special registration may vote in the referendum or special election.

(b) Only persons registered pursuant to this section may vote in the referendum or special election.”

Sec. 2. This act becomes effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of May, 1973.

H. B. 1107**CHAPTER 552****AN ACT TO ESTABLISH A COMMISSION TO LICENSE AND REGULATE AUCTIONEERS.**

The General Assembly of North Carolina enacts:

Section 1. Definitions. For the purposes of this act the following definitions shall apply:

(a) "Auction" means the sale of goods or real estate by means of exchanges between an auctioneer and members of his audience, the exchanges consisting of a series of invitations for offers made by the auctioneer, offers by members of the audience, and the acceptance by the auctioneer of the highest or most favorable offer.

(b) "Auctioneer" means any person who conducts or offers his service to conduct auctions and includes apprentice auctioneers except as stricter standards are specified by this act for apprentice auctioneers.

Sec. 2. Activities governed by act. This act shall apply to all auctions held in this State except the following: (a) sales at auction conducted by the owner of all or any part of the goods being offered, or his attorney, unless the owner originally acquired the goods for the purpose of resale at auction; (b) sales at auction conducted by or under the direction of any public authority; (c) sales at auction pursuant to a judicial order or in the settlement of a decedent's estate; (d) any sale required by law to be at auction; (e) sale of livestock at a public livestock market authorized by the Commissioner of Agriculture; (f) leaf tobacco sales conducted in accordance with the provisions of Chapter 106 of the General Statutes; (g) sale at auction of automobiles conducted under the provisions of G.S. 20-77, or by a motor vehicle dealer licensed under the provisions of Article 12 of Chapter 20 of the General Statutes; (h) sale at auction of a particular brand of livestock conducted by an auctioneer who specializes in the sale of that brand when such sale is conducted under the auspices of a livestock trade association; (i) sales conducted by and on behalf of any charitable or religious organization if the person conducting the sale receives no compensation therefor; (j) sales conducted by a trustee pursuant to a power of sale contained in a deed of trust on real property; (k) sales of collateral, sales conducted to enforce carriers' or warehousemen's liens, bulk sales, sales of goods by a presenting bank following dishonor of a documentary draft, resales of rightfully rejected goods, resales of goods by an aggrieved seller, or other resales conducted pursuant to authority in Articles 2, 4, 6, 7 and 9 of Chapter 25 of the General Statutes (the Uniform Commercial Code).

Sec. 3. Auctioneers Commission. (a) There shall be a five member North Carolina Auctioneers Commission having the powers and responsibilities set out in this act. The Governor shall appoint the members of the Commission, at least three of whom, and their successors, shall be from nominations submitted by the Auctioneers Association of North Carolina. The Auctioneers Association shall submit, within 45 days of when the vacancy occurs, at least three names for each position for which it is entitled to make a nomination. Of the initial five members of the Commission one shall be appointed for a one-year term, two shall be appointed for two-year terms and two for three-year terms; thereafter,

each new member shall be appointed for a term of three years. Any vacancy shall be filled for the remainder of the unexpired term only. Each member shall continue in office until his successor is appointed and qualified.

(b) At least three of the first five members of the Commission shall be experienced auctioneers. Beginning July 1, 1975, at least three members of the Commission must be licensed auctioneers.

(c) The Commission shall employ a secretary-treasurer and such other employees as needed to carry out the duties of this act. All employees shall serve at the pleasure of the Commission.

(d) Any action that may be taken by the Commission may be taken by vote of any three of its members.

(e) The members of the Commission shall elect from among themselves a chairman to serve a one-year term. No person shall serve more than two consecutive terms as chairman.

(f) The Commission shall receive and act upon applications for auctioneer licenses, issue and suspend and revoke licenses, adopt rules and regulations for auctioneers and auctions, and take such other actions as may be necessary to see that the provisions of this act are carried out.

(g) Members of the Commission shall be entitled to the per diem and travel expense allowances of G.S. 138-5 when working on Commission business.

Sec. 4. License required. (a) No person shall sell, or offer his services to sell, goods or real estate at auction in this State unless he holds a currently valid auctioneer or apprentice auctioneer license.

(b) No person shall be licensed as an apprentice auctioneer or as an auctioneer if he:

- (1) is under 18 years of age;
- (2) is not a resident of North Carolina;
- (3) has within the preceding five years pleaded guilty to or been convicted of any felony; or
- (4) has had an auctioneer or apprentice auctioneer license revoked.

(c) Each applicant for an apprentice auctioneer license shall submit a written application in a form approved by the Commission and containing at least two statements by residents of North Carolina attesting to the applicant's good moral character. To receive a license, the applicant must take an examination approved by the Commission and perform on it to the satisfaction of the Commission. The examination shall test the applicant's understanding of the law relating to auctioneers and auctions, ethical practices for auctioneers, and the mathematics applicable to the auctioneer business. The examination shall be given at least twice each year in Raleigh, and at such other times and places as the Commission designates, but no person shall be allowed to take the examination within six months after having failed it a second time.

Each apprentice auctioneer application and license shall name a licensed auctioneer to serve as the supervisor of the apprentice. No apprentice auctioneer may enter into an agreement to conduct an auction, or conduct an auction, without the express approval of his supervisor. The supervisor shall regularly review the records his apprentice is required to maintain under Section 7 of this act and see that they are accurate and current.

(d) No person shall be licensed as an auctioneer unless he has held an apprentice auctioneer license and served as an apprentice auctioneer for the two preceding years, except that any person who has been in the auctioneer business

in this State for at least two years prior to the effective date of this act, and who makes proper application to the Commission within one year after the effective date of this act, may be licensed as an auctioneer without holding an apprentice license for two years.

Each applicant for an auctioneer license shall submit a written application in a form approved by the Commission. If the applicant has been previously licensed as an apprentice auctioneer, the application shall contain an evaluation by the applicant's supervisor of his performance as an apprentice auctioneer. If the applicant is exempted from the requirement of having been an apprentice auctioneer, the application shall give in detail his experience as an auctioneer. Each application shall be accompanied by statements of at least two residents of North Carolina attesting to the applicant's good moral character. The Commission may require verification of any information included in an application for an auctioneer license.

(e) Each apprentice auctioneer and auctioneer license shall be valid for one year and may be renewed for one year at a time except that an apprentice auctioneer license may not be renewed more than three times. No examination shall be required for renewal of an apprentice auctioneer license if the application for renewal is made within 90 days of the expiration of the previous license.

(f) No person shall be issued an auctioneer license until he has filed with the Commission an approved bond with the applicant as principal, payable to the State of North Carolina, in the amount of five thousand dollars (\$5,000). No person shall be issued an apprentice auctioneer license until he has filed with the Commission an approved bond with the applicant as principal, payable to the State of North Carolina, in the amount of one thousand dollars (\$1,000). In each case, the bond shall have as surety a surety company authorized to do business in this State. The bond shall be conditioned for the faithful performance of all contracts relating to sale at auction, and shall be made available for the benefit of any person contracting with the named principal for the holding of sale at auction for damages suffered by reason of the misconduct of the principal in failing to hold or holding the sale. Claim shall be made to the Commission on its form and payment must be made by the surety company on order of the Commission.

(g) A partnership or corporation upon application in a form approved by the Commission, may be designated a "licensed auctioneer partnership" or a "licensed auctioneer corporation" if one or more partners or officers, respectively, is licensed as an auctioneer. Any promotional material of the partnership or corporation which refers to its designation as a licensed auctioneer business must also give the name of each person associated with that business who is a licensed apprentice auctioneer or auctioneer.

(h) The Commission shall publish at least once a year a list of names and addresses of all persons, partnerships and corporations holding valid apprentice auctioneer or auctioneer licenses or designated as licensed auctioneer partnerships or corporations.

Sec. 5. Licensing of nonresidents. Any person who holds a valid auctioneer license in another state may apply for and be granted a North Carolina license if the state in which he is licensed provides similar recognition to a license granted by this state. An applicant under this Section shall not be required to take the examination required under Section 4 but shall pay the

appropriate fee under Section 6 and shall file with the Commission an irrevocable consent that service on the secretary of the Commission shall be sufficient service of process for actions against the applicant by a resident of this State arising out of his auctioneering activities.

An applicant under this section shall not be required to file the bond required under Section 4 if he is currently bonded as an auctioneer or apprentice auctioneer in his home state. Any license issued under this section shall be marked to indicate that its holder is a nonresident.

An auctioneer who is a resident of Virginia or South Carolina and who has conducted at least five auctions in this State in the preceding two years may be licensed under this section notwithstanding the fact that his state does not have an auctioneering licensing requirement. This exception to the requirement of holding a license in the auctioneer's home state shall be inapplicable if and when an auctioneer licensing law becomes effective in the applicant's home state.

Sec. 6. Fees. The Commission shall collect and remit to the State Treasurer the following fees: fifty dollars (\$50.00) for application for apprentice auctioneer license and for examination; twenty-five dollars (\$25.00) for apprentice auctioneer license for one year; twenty-five dollars (\$25.00) for application for auctioneer license; one hundred dollars (\$100.00) for auctioneer license for one year; seventy-five dollars (\$75.00) for designation as licensed auctioneer partnership or corporation.

No local government or agency of local government may charge any auctioneer fees or require any auctioneer licenses in addition to those set out in this act.

Sec. 7. Conduct of auction. (a) No person shall conduct an auction in this State without first having a written agreement with the owner of any property to be sold. The agreement must contain the terms and conditions upon which the auctioneer received the goods for sale. The auctioneer shall provide the owner with one copy of the agreement and shall keep at least one copy for his own records for two years from the date of the agreement. A written agreement shall not be required for a sale at auction if the sale is made at an auction house or similar place where members of the public are generally offered the opportunity to present goods for sale, there has been no prior negotiation between the owner and the auctioneer, and the goods are not sold for more than five hundred dollars (\$500.00).

(b) Each auctioneer shall maintain a record book and enter in it, upon receipt of goods for auction and before their sale, the name and address of the person who employed him to sell the goods at auction and the name and address of the owner of the goods to be sold. It shall not be necessary to enter in the record book any record of sales made at an auction house or similar place where members of the public are generally offered the opportunity to present goods for sale, there has been no prior negotiation between the owner and the auctioneer, and the goods are not sold for more than five hundred dollars (\$500.00). The record book shall be open for inspection by the Commission or its designated agent at reasonable times.

(c) Each auctioneer shall have his license available at each auction he conducts.

Sec. 8. Prohibited acts; revocation of license. (a) The following shall be grounds for suspension or revocation of an auctioneer or apprentice auctioneer license:

- (1) any violation of this act;
- (2) a continued and flagrant course of misrepresentation or making false promises, either by the auctioneer or by someone acting in his behalf and with his consent;
- (3) any failure to account for or to pay over within a reasonable time, not to exceed 30 days, money belonging to another which has come into the auctioneer's possession through an auction sale;
- (4) any misleading or untruthful advertising;
- (5) any act of conduct in connection with a sales transaction which demonstrates bad faith or dishonesty;
- (6) knowingly using false bidders, cappers or pullers, or making a material false statement for license.

(b) The Commission may suspend or revoke a license following a hearing. The hearing shall be held in the county in which the auctioneer under investigation resides, unless the Commission determines that another location would be more convenient to all parties involved, because of its proximity to the location of the events that led to the investigation or some other good reason. The person who is being investigated shall be given, at least 25 days prior to the hearing, written notice of the hearing and copies of all documents the Commission has relating to the matter. He shall be entitled to have counsel present, to examine all witnesses and to present evidence in his own behalf. The Commission must make its decision within 10 days of the conclusion of the hearing. The provisions of Article 33A of Chapter 143 of the General Statutes shall apply to all hearings held pursuant to this act.

(c) Any person whose license is suspended or revoked may appeal the Commission's decision pursuant to the provisions of Article 33 of Chapter 143 of the General Statutes.

(d) The Commission or its authorized representatives may subpoena witnesses and documents for any hearing and may administer oaths to such witnesses.

Sec. 9. Chapter 85 of the General Statutes, all local acts, city and county ordinances and all other laws and clauses of laws in conflict with this act are repealed.

Sec. 10. This act shall become effective on and after July 1, 1973.

In the General Assembly read three times and ratified, this the 17th day of May, 1973.

H. B. 1324

CHAPTER 553

AN ACT TO FILL A CURRENT VACANCY AND TO AMEND SECTION 5, CHAPTER 314, SESSION LAWS OF 1961, WITH RESPECT TO FILLING VACANCIES OF THE COUNTY BOARD OF EDUCATION IN JACKSON COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Consistent with the April 16, 1973, unanimous endorsement of the Jackson County Democratic Executive Committee and under what is here specifically recognized as the currently applicable law (SL 1961, c. 314, s. 5 and SL 1955, c. 1372, art. 5, s. 7 incorporated by reference), Mrs. Elizabeth P. Dewees is hereby appointed to serve the unexpired portion of her late husband's term as a member of the Jackson County Board of Education. After the effective

date of this act, such vacancies shall be filled according to the provisions of Section 2 as follows.

Sec. 2. Section 5, Chapter 314, Session Laws of 1961, is rewritten as follows:

“Sec. 5. Any vacancy occurring on the Jackson County Board of Education by a death, resignation, or otherwise, shall be filled by a person appointed by the remaining members of the Board of Education who shall appoint the person nominated by the Executive Committee of the political party of which the individual was a member, but such person, or persons, appointed to fill the vacancy shall be from the same district as the person whose death, resignation or removal created the vacancy on the board. If a person who has been nominated as a candidate from any district dies or removes himself, or for any other reason cannot be a candidate in the general election, a candidate shall be appointed from the district which such person represented by the Executive Committee of the political party of which the dead or disqualified candidate was a member. Such appointee shall have his name placed upon the ballot to be voted upon in the general election the same as any candidate who has been nominated in the primary.”

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of May, 1973.

S. B. 227

CHAPTER 554

AN ACT TO PROVIDE EQUITY BETWEEN STATE AND NATIONAL BANKS AS TO RESERVE REQUIREMENTS IN NORTH CAROLINA.

Whereas, there are both state and national banks in North Carolina, all of which have traditionally adhered to the principle of equitable regulation and supervision for both; and

Whereas, the Federal Reserve System on November 9, 1972, implemented Regulation D relating to reserve requirements applicable to member banks, which includes all national banks in North Carolina; and

Whereas, the banking laws of the State of North Carolina, particularly G.S. 53-50, set reserve requirements for non-member banks of the Federal Reserve System, which includes state banks in North Carolina; and

Whereas, G.S. 53-50 establishes for such state banks (which are not members of the Federal Reserve System) reserve requirements which are inequitable when compared with those now required for competing Federal Reserve member banks in North Carolina; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 53-50(a), as the same appears in the 1971 Cumulative Supplement to 1965 Replacement Volume 2B of the General Statutes, is rewritten to read as follows:

“(a) A bank which is not a member of the Federal Reserve System shall maintain at all times a reserve fund in such percentages as shall be fixed by regulation of the Banking Commission, which percentages shall be equal to or less than by not more than two percentage points, but never greater than, those required under the laws of the United States for banks which are members of the Federal Reserve System. The amount of the required reserve for each day

shall be computed on the basis of average daily deposits covering such biweekly or shorter periods as shall be fixed by regulation of the Banking Commission."

Sec. 2. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 17th day of May, 1973.

S. B. 504

CHAPTER 555

AN ACT TO AMEND G.S. 153-9(17) RELATING TO CLOSING PUBLIC WAYS.

The General Assembly of North Carolina enacts:

Section 1. The fourth paragraph of G.S. 153-9(17) which reads:

"The board of aldermen or other governing body of any municipality shall have the same power and authority with respect to roads, streets or other public ways which are inside the corporate limits of such municipality as given to the county commissioners by the second paragraph of this subdivision with respect to roads, streets or public ways outside the corporate limits of a municipality. Provided, that the provisions of this paragraph shall not apply to any streets or highways under the control and supervision of the State Highway Commission.", is amended to read:

"The board of aldermen or other governing body of any municipality shall have the same power and authority with respect to any street or road or portion thereof which is inside the corporate limits of such municipality as given to the county commissioners by this subdivision with respect to any street or road or portion thereof outside the corporate limits of a municipality. Provided, that the provisions of this paragraph shall not apply to any streets or highways under the control and supervision of the State Highway Commission."

Sec. 2. G.S. 153-9(17) is hereby amended by adding the following paragraph:

"Whenever the word 'street' or the word 'streets' appears in this subdivision, the word 'street' shall also mean and include an alley or lane and the word 'streets' shall mean and include alleys or lanes."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of May, 1973.

S. B. 537

CHAPTER 556

AN ACT TO AMEND ARTICLE 4C OF CHAPTER 106 OF THE GENERAL STATUTES, THE STRUCTURAL PEST CONTROL ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 106-65.23 is amended by rewriting the fifth and sixth sentences in the third paragraph thereof which now read "The vacancy occurring on the Committee by the expired term of the member from the entomology faculty of said University shall be filled by the dean of the School of Agriculture of North Carolina State University at Raleigh who shall designate any person of his choice to serve on said Committee at the pleasure of the dean. The Governor shall appoint two members of said Committee who are actively engaged in the pest control industry and who are residents of the State of North Carolina but not affiliates of the same company.", so that said sentences shall

read as follows: "The vacancy occurring on the Committee by the expired term of the member from the Entomology faculty of said University shall be filled by the Dean of the School of Agriculture of North Carolina State University at Raleigh who shall designate any person of his choice from the Entomology faculty of said University to serve on said Committee at the pleasure of the Dean. The Governor shall appoint two members of said Committee who are actively engaged in the pest control industry, who are licensed in at least two phases of structural pest control as provided under G.S. 106-65.25(a), and who are residents of the State of North Carolina but not affiliates of the same company."

Sec. 2. G.S. 106-65.24 is rewritten in its entirety to read as follows:

"§ 106-65.24. *Definitions.*—For the purposes of this Article, the following terms, when used in the Article or the rules and regulations, or orders made pursuant thereto shall be construed respectively to mean:

(1) 'Animal' means all vertebrate and invertebrate species, including but not limited to man and other mammals, birds, fish, and shellfish.

(2) 'Applicant' means any person in charge of any individual, firm, partnership, corporation, association, or any other organization or any combination thereof, making application for a license to engage in structural pest control, control of structural pests or household pests, or fumigation operations, or any person qualified under the terms of this Article.

(3) 'Attractants' means substances, under whatever name known, which may be toxic to insects and other pests but are used primarily to induce insects and other pests to eat poisoned baits or to enter traps.

(3a) 'Branch office' means and includes any place of doing business which has two or more employees engaged in the control of insect pests, rodents, or wood-destroying organisms.

(4) 'Certified applicator' means any individual who is certified under G.S. 106-65.25 as authorized to use or supervise the use of any pesticide which is classified for restricted use.

(5) 'Commissioner' means the Commissioner of Agriculture of the State of North Carolina.

(6) 'Committee' means the Structural Pest Control Committee.

(7) 'Device' means any instrument or contrivance (other than a firearm) which is intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life (other than man and other than bacteria, virus, or other microorganism on or in living man or other living animals); but not including equipment used for the application of pesticides when sold separately therefrom.

(8) 'Director' means the Director of the Structural Pest Control Division of the Department of Agriculture.

(9) 'Employee' means any person employed by a licensee with the exceptions of clerical, janitorial, or office maintenance employees, or those employees performing work completely disassociated with the control of insect pests, rodents or the control of wood-destroying organisms.

(10) 'Fumigants' means any substance which by itself or in combination with any other substance emits or liberates a gas or gases, fumes or vapors and which gas or gases, fumes or vapors when liberated and when used will destroy vermin, rodents, insects, and other pests; but may be lethal, poisonous, noxious, or dangerous to human life.

(11) 'Fungi' means wood-decaying fungi.

(12) 'Insect' means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class Insecta, comprising six-legged, usually winged forms, as for example, beetles, bugs, bees, flies, and to other allied classes of arthropods whose members are wingless and usually have more than six legs, as for examples, spiders, mites, ticks, centipedes, and sowbugs.

(13) 'Insecticides' means substances, not fumigants, under whatever name known, used for the destruction or control of insects and similar pests.

(14) 'Label' means the written, printed, or graphic matter on, or attached to, the pesticide or device or any of its containers or wrappers.

(15) 'Licensee' means the designated person in charge of the business establishment or business entity, whether it be individual, firm, partnership, corporation, association or any organization, or any combination thereof, engaged in pest control work covered under the provisions of this Article. Each branch office of a business establishment is to be in charge of a person who has a license herein provided for.

(16) 'Person' means any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.

(17) 'Pest' means any living organism, including but not limited to, insects, rodents, birds, and fungi, which the Commissioner declares to be a pest.

(18) 'Pesticide' means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.

(19) 'Repellents' means substances, not fumigants, under whatever name known, which may be toxic to insects and related pests, but are generally employed because of capacity for preventing the entrance or attack of pests.

(20) 'Registered pesticide' means a pesticide which has been registered by the federal and/or State agency responsible for registering pesticides.

(21) 'Restricted-use pesticide' means a pesticide which has been designated as such by the federal and/or State agency responsible for registering pesticides.

(22) 'Rodenticides' means substances, not fumigants, under whatever name known, whether poisonous or otherwise, used for the destruction or control of rodents.

(23) 'Structural pest control' means the control of wood-destroying organisms or household pests (including, but not limited to, animals such as moths, cockroaches, ants, beetles, flies, mosquitoes, ticks, wasps, bees, fleas, mites, silverfish, millipedes, centipedes, sowbugs, crickets, termites, wood borers, etc.), including the identification of infestations or infections, the making of inspections, the use of pesticides, including insecticides, repellents, attractants, rodenticides, fungicides, and fumigants, as well as all other substances, mechanical devices or structural modifications under whatever name known, for the purpose of preventing, controlling and eradicating insects, vermin, rodents and other pests in household structures, commercial buildings, and other structures, (including household structures, commercial buildings and other structures in all stages of construction) and outside areas, as well as all phases of fumigation, including treatment of products by vacuum fumigation, and the fumigation of railroad cars, trucks, ships, and airplanes, or any one or any combination thereof.

(24) 'Under the direct supervision of a certified applicator' means unless otherwise prescribed by its labeling, a pesticide shall be considered to be applied

under the direct supervision of a certified applicator if it is applied by a competent person acting under the instructions and control of a certified applicator who is available if and when needed, even though such certified applicator is not physically present at the time and place the pesticide is applied."

Sec. 3. G.S. 106-65.25 is amended by adding a subsection (c) as follows:

"(c) Any person issued an original license after October 21, 1976, for any one or any combination of the three phases shall be deemed to be a 'certified applicator' to use or supervise the use of pesticides which are classified for restricted use so long as the pesticides are being used only in the phase of structural pest control for which the person is licensed."

Sec. 4. G.S. 106-65.26 is amended by rewriting subdivisions (2) and (3) so that they will read as follows:

"(2) one or more years' training in specialized pest control, control of wood-destroying organisms or fumigation under university or college supervision may be substituted for practical experience. Each year of such training may be substituted for one year of practical experience; provided, however, if applicant has had less than 12 months' practical experience, the Committee is authorized to determine whether said applicant has had sufficient experience to take the examination.

(3) a degree from a recognized college or university with training in entomology, sanitary or public health engineering, or related subjects; provided, however, if applicant has had less than 12 months' practical experience, the Committee is authorized to determine whether said applicant has had sufficient experience to take the examination."

Sec. 5. G.S. 106-65.27(a) is amended by rewriting the first sentence thereof which now reads, "All applicants must pass a satisfactory oral or written examination, or both oral and written examination.", so that said sentence reads as follows: "Each applicant for an original license must demonstrate upon written, or written and oral, examination to be prescribed by the Committee, his knowledge of pesticides, their usefulness and their hazards; his competency as a structural pest control operator for the phases in which he is applying for a license and his knowledge of the laws and regulations governing the use and application of pesticides."

Sec. 6. G.S. 106-65.27 is further amended by adding a subsection (c) to read as follows:

"(c) The Committee shall by regulation provide for:

- (1) All licensees licensed prior to October 21, 1976, to become qualified as certified applicators, and
- (2) Requalifying licensees as certified applicators thereafter as required by the federal government at intervals no more frequent than that specified by federal law and federal regulation."

Sec. 7. G.S. 106-65.28(a) is amended by adding subdivisions (6), (7), (8), and (9) as follows:

"(6) Aiding or abetting a licensed or an unlicensed person to evade the provisions of this Article, combining or conspiring with such a licensed

or unlicensed person to evade the provisions of this Article, or allowing one's license to be used by an unlicensed person;

- (7) Impersonating any State, county or city inspector or official;
- (8) Storing or disposing of containers or pesticides by means other than those prescribed on the label or adopted regulations;
- (9) Using any registered pesticide in a manner inconsistent with its labeling."

Sec. 8. G.S. 106-65.28(b) is amended by adding a new paragraph at the end thereof as follows:

"The lapsing of a State structural pest control license by operation of law or the voluntary surrender of a license by a licensee shall not deprive the Committee of jurisdiction to proceed with any investigation or disciplinary proceedings against such licensee, or to render a decision suspending or revoking such license."

Sec. 9. G.S. 106-65.30 is amended by rewriting the second paragraph thereof to read as follows:

"Prior to the issuance or renewal of a license, every nonresident owner of a business performing any phase of structural pest control work shall designate in writing to the Director, a resident agent upon whom service or notice of process may be had to enforce the provisions of this Article or any civil or criminal liabilities arising hereunder."

Sec. 10. G.S. 106-65.31 is amended by striking the figure "30" appearing in the first line of the third paragraph thereof and substituting in lieu thereof the figure "75". Said section is further amended by striking the figure "30" appearing in line seven of the fourth paragraph and substituting in lieu thereof the figure "75".

G.S. 106-65.31 is further amended by adding at the end thereof the following paragraph:

"No person shall act as a serviceman, salesman, estimator, solicitor, or agent for any licensee under this act, nor shall any such person be issued an identification card by the Structural Pest Control Committee, who has within three years of the date of application for an identification card, been convicted of, pled guilty or nolo contendere, or forfeited bond, in any court, state or federal, to a crime involving moral turpitude or to any violation of the North Carolina Structural Pest Control Act or to any regulation promulgated by the Structural Pest Control Committee. This provision shall not apply to any person whose citizenship has been restored as provided by law."

Sec. 11. G.S. 106-65.32 is amended by rewriting the fourth sentence thereof which reads: "Upon receiving such accusation, the Committee shall serve notice by registered mail of the time, place of hearing, and a copy of the charges upon the accused at least 30 days before the date of hearing.", so that said sentence reads: "Upon receiving such accusation, the Committee shall serve notice upon the accused at least 20 days before the date of the hearing notice by registered mail, or personally, of the time, place of hearing, and a copy of the charges."

Sec. 12. G.S. 106-65.35 is repealed effective October 21, 1974.

Sec. 13. A new section is added to Article 4C of Chapter 106 to read as follows:

"§ 106-65.36. *Reciprocity; intergovernmental cooperation.*—The Committee may cooperate or enter into formal agreements with any other agency of this

State or its subdivisions or with any agency of any other state or of the federal government for the purpose of enforcing any of the provisions of this Article.”

Sec. 14. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of May, 1973.

H. B. 426

CHAPTER 557

AN ACT AMENDING G.S. 105-369 TO EXEMPT COUNTIES AND THE MUNICIPALITIES THEREIN FROM THE PROVISIONS OF G.S. 105-369 OF THE MACHINERY ACT OF 1971, RELATING TO SALES OF TAX LIENS ON REAL PROPERTY FOR FAILURE TO PAY TAXES, UPON THE ADOPTION OF A RESOLUTION BY THE GOVERNING BODIES OF THE COUNTY OR THE MUNICIPALITIES THEREIN.

The General Assembly of North Carolina enacts:

Section 1. A new subsection (m) to be entitled “Exemptions” is hereby added to G.S. 105-369 to read as follows:

“(m) Exemptions.

- (1) The provisions of G.S. 105-369(a) through (k) and each subdivision thereof relating to the sales of tax liens on real property for failure to pay taxes shall not apply to a county or any of the incorporated municipalities therein, if the governing body or bodies of the county or municipalities therein shall duly adopt a resolution providing that the county or municipality, whichever the case may be, shall be exempted from the provisions of G.S. 105-369 and providing that the county or municipality shall not be required to comply with G.S. 105-369.
- (2) The adoption of a resolution prescribed above shall not affect the validity of the taxes or the tax liens provided for by law, nor any remedies provided for the collection of ad valorem taxes, and the governing body or bodies may provide by resolution for sales and advertisement of tax liens in such manner and under such circumstances as they may deem appropriate in their discretion; provided, that it is the intent of this provision that no sale or advertisement shall be required if the provisions of subdivision(1) herein are complied with.
- (3) It is the intent of this section that a county or any municipality therein shall have the authority to act without the requirement that all other governing bodies therein so act, and it is intended that one governing body may adopt the resolution referred to in (m)(1) or (2) above without the necessity of similar action by the other governing bodies in the county.
- (4) Any resolution adopted by a county or municipality shall be effective for the period prescribed or until repealed.”

Sec. 2. This act shall apply only to Cumberland, Forsyth, and Mecklenburg Counties.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of May, 1973.

H. B. 664

CHAPTER 558

AN ACT TO REWRITE G.S. 152-7(2) TO PROVIDE FOR THE SELECTION OF A JURY AT A CORONER'S INQUEST.

The General Assembly of North Carolina enacts:

Section 1. G.S. 152-7(2) is hereby rewritten to read as follows:

"(2) To empanel a jury of six persons, under oath, to make further inquiry as to the circumstances of death and to call witnesses as necessary to determine the circumstances. The coroner shall order that the names of at least 15 persons be drawn from the jury box in accordance with the procedure in G.S. 9-5. The coroner shall examine the jurors appearing in obedience to the summons, and may excuse jurors for whom service would be an extreme hardship, who would be unable to remain impartial in determining the issues, or are otherwise disqualified to serve as jurors. If the remaining jurors are less than six in number, the coroner shall cause sufficient additional names to be drawn from the jury box and have them summoned, so as to obtain the immediate attendance of at least six qualified jurors. The first six qualified jurors constitute the inquest jury."

Sec. 2. This act shall become effective September 1, 1973.

In the General Assembly read three times and ratified, this the 17th day of May, 1973.

H. B. 665

CHAPTER 559

AN ACT TO AMEND G.S. 20-299 TO MAKE AUTOMOBILE DEALERS RESPONSIBLE FOR ACTS OF THEIR SALESMEN WHILE ACTING AS THEIR AGENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-299(a) is hereby amended by placing a period after the word "agent" appearing in line 6 and striking the remaining portion thereof.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of May, 1973.

H. B. 956

CHAPTER 560

AN ACT TO AMEND G.S. 105-296 TO CLARIFY THE AUTHORITY OF THE COUNTY TAX SUPERVISOR TO REQUIRE INFORMATION PERTINENT TO THE DISCOVERY OF APPRAISAL OF TAXABLE PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-296(h) is rewritten to read as follows:

"(h) Only after the abstract has been carefully reviewed can the Tax Supervisor require any person operating a business enterprise in the county to submit a detailed inventory, statement of assets and liabilities, or other similar information pertinent to the discovery or appraisal of property taxable in the county. Inventories, statements of assets and liabilities, or other information secured by the tax supervisor under the terms of this subsection, but not expressly required by this subchapter to be shown on the abstract itself, shall not be open to public inspection but shall be made available, upon request, to

representatives of the Department of Revenue. Any Tax Supervisor or other official or employee disclosing information so obtained, except as such disclosure may be necessary in listing or appraising property in the performance of official duties, or in the administrative or judicial proceedings relating to listing, appraising, or other official duties, shall be guilty of a misdemeanor and punishable by fine of not exceeding fifty dollars (\$50.00)."

Sec. 2. This act shall become effective January 1, 1974.

In the General Assembly read three times and ratified, this the 17th day of May, 1973.

H. B. 974

CHAPTER 561

AN ACT TO APPROPRIATE FUNDS TO THE CAROLINA POPULATION CENTER.

Whereas, some two hundred thousand medically-indigent women in North Carolina still lack adequate family planning guidance or assistance; and

Whereas, nearly one-third of all births in the State today, and nearly one-half among the poor, are unwanted or in medically high-risk categories; and

Whereas, one of the most effective ways to curb mental illness and retardation, especially among mothers and children, is to reduce the number of unwanted pregnancies; and

Whereas, an estimated one-fourth to one-third of North Carolina's brides are pregnant at the time they are married — and these marriages are among those most likely to fail; and

Whereas, it costs about sixty dollars (\$60.00) a year to provide a North Carolina woman with subsidized family planning services, while it costs at least one thousand five hundred dollars (\$1,500) in tax funds annually to provide minimal care and education for each dependent child; and

Whereas, the highest rates of maternal and child mortality and illness occur in families with excess fertility — adding further to medical and other dependency costs; and

Whereas, concern with population trends is essential to the State's overall progress just as concern with family planning is essential to family health and individual fulfillment; and

Whereas, specialized population data and guidance are most urgently needed to help North Carolina avoid the kinds of developmental mistakes which are crippling other parts of the nation; and

Whereas, the National Commission on Population Growth and the American Future has underscored the essential need for State initiative in this field; and

Whereas, North Carolina's rate of population growth is higher than the national average and population trends indicate the State is becoming a new target of in-migration; and

Whereas, governmental and economic authorities agree that North Carolina's healthy future growth depends on careful attention to both the quantity and distribution of population; and

Whereas, the aforesaid Commission also emphasized that haphazard population growth and distribution patterns throughout the U. S. are seriously aggravating the problems of urban life and are contributing greatly to environmental destruction; and

Whereas, the Carolina Population Center is recognized as the foremost institution for population analysis in the Southeast, one of the foremost in the world, and a unique resource for State and regional agencies concerned with population growth and its consequences; and

Whereas, the Carolina Population Center is the only institution in North Carolina combining specialized capability in both population analysis and family planning program development; and

Whereas, the Center's ability to provide expert technical assistance in the design of family planning programs can become increasingly useful to the State in acquiring maximum federal funds for the expansion of such programs; and

Whereas, it is much more cost-effective to sustain and support the capabilities of The Center in these fields than to create and coordinate such capabilities in the other State and local agencies concerned with such matters; and

Whereas, such aforementioned family planning technical assistance and population services would therefore complement without overlapping the functions of other North Carolina State and local agencies; and

Whereas, the maintenance of this capability of The Center would enable it to provide family planning technical assistance and population services to State and local agencies at a demonstrably lower contract price; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund of the State to the Department of Administration the sum of two hundred thousand dollars (\$200,000) for the fiscal year beginning July 1, 1973, and ending June 30, 1974, for the purpose of insuring The Center's continuing capability in the fields of population services and family planning program development. The funds shall be expended by The Center for the purpose of assisting State and local agencies with the design and delivery of fertility control services, and with population aspects of the further economic and social development of North Carolina.

Sec. 2. A copy of the audit report for this grant-in-aid program shall be submitted to the Legislative Fiscal Research Division for review.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of May, 1973.

H. B. 1123

CHAPTER 562

AN ACT TO ESTABLISH A RESERVE FUND TO CREATE AN
ADDITIONAL DEGREE-GRANTING SCHOOL OF MEDICINE WITHIN
THE UNIVERSITY OF NORTH CAROLINA.

Whereas, there is strong evidence that many areas of the State, East, Piedmont, and West, do not share in the availability of a broad range of high quality medical care routinely enjoyed and expected by citizens of other states and by North Carolinians located near the large medical complexes and population centers; and

Whereas, the ratio of physicians who actually provide personal health services to people is probably the most important single factor in determining the quality and quantity of health care available, and this ratio is known to be low in our State as a whole, and desperately low in large geographic areas; and

Whereas, the number of physicians practicing in an area has the added effect of attracting allied health personnel so essential to broad health care; and

Whereas, it is concluded that there is a crying demand by our neglected people for a substantial increase in the production of physicians in an atmosphere of family practice, nontraditional specialty emphasis, and admissions screening related to the goal of improved health care for the State's rural areas and small towns and communities; and

Whereas, the Committee to study the request of East Carolina University for a second year of medical education, as established by the Board of Governors, believes that we should "consider seriously the establishment of a new degree-granting school of medicine which would emphasize the training of primary care physicians"; and

Whereas, in response to this Committee's recommendation, a study is underway by a team of experienced and qualified national consultants to evaluate the need for an additional degree-granting school of medicine within the University of North Carolina; and

Whereas, if this study should indicate the need for an additional degree-granting school of medicine, it would not be possible to provide for implementation without substantial advance consideration of the tax resources required; and

Whereas, several other states, among them Arkansas, Iowa, Mississippi, and South Carolina, have seen the wisdom of establishing substantial contingency reserves to provide for future needs; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated out of the General Fund of the State the sum of seven million five hundred thousand dollars (\$7,500,000) to the Board of Governors of the University of North Carolina as a reserve to establish an additional degree-granting School of Medicine within the University of North Carolina.

Sec. 2. This act shall be effective July 1, 1973.

In the General Assembly read three times and ratified, this the 17th day of May, 1973.

S. B. 519

CHAPTER 563

AN ACT TO AMEND G.S. 143-135 RELATING TO THE LETTING OF PUBLIC CONTRACTS BY THE CITY OF CHARLOTTE AND THE COUNTY OF MECKLENBURG.

The General Assembly of North Carolina enacts:

Section 1. Section 143-135 of the General Statutes of North Carolina, as the same applies to the City of Charlotte in Mecklenburg County and the County of Mecklenburg, is hereby amended by deleting the words and figures "twenty-five thousand dollars (\$25,000)" appearing in line 4, and inserting in lieu thereof the words and figures "forty thousand dollars (\$40,000)".

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 17th day of May, 1973.

S. B. 523

CHAPTER 564

AN ACT TO MAKE CLARIFYING AMENDMENTS TO THE LEVY AND RELEASE-REFUND PROVISIONS OF THE MACHINERY ACT OF 1971.

The General Assembly of North Carolina enacts:

Section 1. Subdivision (d)(3) of G.S. 105-366 is rewritten to read as follows:

“(3) Whenever any wholesale or retail merchant (as defined in Schedule E of the Revenue Act) sells or transfers the major part of his stock of goods, materials, supplies, or fixtures, other than in the ordinary course of business, or goes out of business, and the taxes due or to become due on the transferred property on the first day of September of the current calendar year are unpaid, the tax collector, to enforce collection of the unpaid taxes, may:

- a. levy on or attach any personal property of the seller; or
- b. if the taxes remain unpaid 30 days after the date of the transfer or termination of business, levy on or attach any of the property transferred in the hands of the transferee or successor in business, or any other personal property of the transferee or successor in business, but in either case the levy or attachment must be made within six months of the transfer or termination of business.”

Sec. 2. G.S. 105-380 is rewritten to read as follows:

“§ 105-380. *No taxes to be released, refunded, or compromised.*—(a) The governing body of a taxing unit is prohibited from releasing, refunding, or compromising all or any portion of the taxes levied against any property within its jurisdiction except as expressly provided in this Subchapter.

(b) Taxes that have been released, refunded, or compromised in violation of this section shall be deemed to be unpaid and shall be collectible by any means provided by this Subchapter, and the existence and priority of any tax lien on property shall not be affected by the unauthorized release, refund, or compromise of the tax liability.

(c) Any tax that has been released, refunded, or compromised in violation of this section may be recovered from any member or members of the governing body who voted for the release, refund, or compromise by civil action instituted by any resident of the taxing unit, and when collected, the recovered tax shall be paid to the treasurer of the taxing unit. The costs of bringing the action, including reasonable attorneys' fees, shall be allowed the plaintiff in the event the tax is recovered.

(d) The provisions of this section are not intended to restrict or abrogate the powers of a board of equalization and review or any agency exercising the powers of such a board.”

Sec. 3. G.S. 105-381 is rewritten to read as follows:

“§ 105-381. *Taxpayer's remedies.*—(a) Statement of Defense. Any taxpayer asserting a defense to the payment or enforcement of a tax upon his property shall proceed as follows:

- (1) If a tax has not been paid, the taxpayer may make a demand for the release of the tax claim by submitting to the governing body of the taxing unit a written statement of his defense to payment or enforcement of the tax and a request for release of the tax claim.
- (2) If a tax has been paid, the taxpayer, at any time within 30 days after

payment, may make a demand for refund of the tax paid by submitting to the governing body of the taxing unit a written statement of his defense to payment or enforcement of the tax and a request for a refund thereof.

(b) Action of Governing Body. Upon receiving a taxpayer's written statement of defense and request for release or refund, the governing body of the taxing unit shall determine whether the tax, or any part of it, was illegal or levied for an illegal purpose and take one of the following actions:

- (1) If the tax has not been paid, the governing body shall release the amount determined to be illegal or levied for an illegal purpose, or it shall disallow the taxpayer's request for release.
- (2) If the tax has been paid, the governing body shall refund the amount determined to be illegal or levied for an illegal purpose, or it shall disallow the taxpayer's request for refund.

The governing body shall take action on each request for release or refund within 90 days after the date on which it is received. The action taken on each such request shall be entered in the minutes of the governing body, and notice of the action shall be mailed to the person who made the request. If a release is granted or refund made, the tax collector shall be credited with the amount released or refunded in his annual settlement.

(c) Suit for Recovery of Property Taxes.

- (1) Request for Release before Payment. If within 90 days after receiving a taxpayer's request for release of an unpaid tax claim under subsection (a)(1), above, the governing body of the taxing unit has failed to grant the release, has notified the taxpayer that no release will be granted, or has taken no action on the request, the taxpayer shall pay the tax when due. He may then follow the procedure provided in subsection (a)(2), above, or without making demand for refund, he may bring a civil action against the taxing unit for the portion of the amount paid which he asserts to be illegal or levied for an illegal purpose.
- (2) Request for Refund. If within 90 days after receiving a taxpayer's request for refund under subsection (a), above, the governing body has failed to refund the full amount requested by the taxpayer, has notified the taxpayer that no refund will be made, or has taken no action on the request, the taxpayer may bring a civil action against the taxing unit for the amount requested.
- (3) Civil Actions. Civil actions brought pursuant to this subsection (c) shall be brought in the appropriate division of the General Court of Justice of the county in which the taxing unit is located. If, upon the trial, it is determined that the tax or any part of it was illegal or levied for an illegal purpose, judgment shall be rendered therefor, with interest thereon at six percent (6%) per annum, plus costs, and the judgment shall be collected as in other civil actions.

Sec. 4. G.S. 105-355, as it appears in 1972 Replacement Volume 2D of the General Statutes of North Carolina, is amended by changing the reference to "G.S. 105-307" in line five thereof to read "G.S. 105-285".

Sec. 5. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 17th day of May, 1973.

S. B. 808

CHAPTER 565

AN ACT AUTHORIZING THE CRAVEN COUNTY BOARD OF EDUCATION TO LEASE CERTAIN REAL PROPERTY TO THE NEUSE RIVER WATER AND SEWAGE ASSOCIATION, INC., FOR A PERIOD NOT TO EXCEED FORTY YEARS.

The General Assembly of North Carolina enacts:

Section 1. The Craven County Board of Education is hereby authorized, in its discretion and upon such terms and conditions as it deems advisable, to enter into a 40-year lease agreement with Neuse River Water and Sewage Association, Inc., for so much of the Brinson Memorial School site as is necessary for the purpose of constructing and maintaining an elevated water tower together with lines leading from the highway right-of-way into said water tower.

Sec. 2. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 17th day of May, 1973.

S. B. 879

CHAPTER 566

AN ACT TO PROVIDE FOR A REFERENDUM TO DETERMINE WHETHER THE HIGH POINT CITY BOARD OF EDUCATION SHALL BE ELECTED BY THE PEOPLE OR APPOINTED.

The General Assembly of North Carolina enacts:

Section 1. The High Point City Board of Education shall consist of seven members who shall be elected in a nonpartisan election by the qualified voters of the School Administrative Unit. The members shall serve staggered terms of four years. The election shall be held, beginning in 1975, at the same time as the regular election for the governing body of High Point, and, except as otherwise provided herein, shall be held and conducted under the laws applicable to nonpartisan elections as provided in Articles 23 and 24 of Chapter 163 of the General Statutes. No primary election shall be held. Notice of candidacy shall be filed as provided in G.S. 163-294.2. The election shall be held and conducted by the Board of Elections which conducts the elections for the City of High Point.

At the election to be held in November, 1975, four candidates, one from each of the four wards will be elected for terms of four years, the candidate receiving the highest number of votes in each ward to be declared the ward representative. If any ward fails to produce a candidate for ward representative, the High Point City Council shall appoint a ward representative from that ward to serve a four-year term.

At the regular meeting in December following the election in November, the Board shall elect one of its members to serve as chairman for a two-year term.

Those areas outside the city limits, but within the High Point City School Administrative Unit shall be considered as part of the nearest contiguous ward. The final decision on which ward this will be shall be made by the Guilford County Board of Elections.

In 1977, three members will be elected, those three candidates receiving the highest total of votes in all wards being declared at-large members of the school board.

By the first Monday in December, 1975, the City Council of High Point shall have appointed three at-large members to serve until the effective date of the election in 1977. Thereafter, as terms expire, successors shall be elected for terms of four years.

Whenever a vacancy occurs, other than by expiration of term, it shall be filled for the unexpired term by appointment by the City Council of High Point.

The term of office shall commence on the first Monday in December after the election. Terms of the incumbent members of the City Board of Education serving during the year 1975, shall be increased or decreased so as to expire on the first Monday in December, 1975.

Sec. 2. At the regular general election for city officers to be held in High Point in 1973, the Guilford County Board of Elections shall submit to the qualified voters of the High Point City Administrative School Unit the question whether the members of the High Point City Board of Education shall be elected or appointed. The Board of Elections shall cause a notice of the special election to be published once a week for four weeks immediately prior to the closing of the registration records. Said notice shall be published in a newspaper having general circulation in the City of High Point, and shall state the purpose of the election and the issues to be voted upon. The voter shall be permitted to vote for only one issue.

The issues on the ballot shall be as follows:

“Issue No. 1.

FOR election of the City Board of
Education and AGAINST appointment of its
members.

Issue No. 2.

FOR appointment of City Board of
Education and AGAINST election of its
members.”

The issue receiving the largest number of votes shall be passed and the other defeated. If Issue No. 1 is passed, then Section 2 of this act shall be null and void, and Section 1 shall become effective upon the certification of the results by the Board of Elections.

If Issue No. 2 is passed, then Section 1 of this act shall be null and void and Section 2 shall become effective upon the certification of the results by the Board of Elections.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of May, 1973.

S. B. 925

CHAPTER 567

AN ACT MAKING LAWFUL ALL MARRIAGE CEREMONIES PERFORMED IN THE SANCTUARY OF THE FRIEDBURG MORAVIAN CHURCH, REGARDLESS OF WHETHER THE MARRIAGE LICENSE WAS ISSUED IN FORSYTH OR DAVIDSON COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding any other provision of law, all marriage ceremonies performed in the sanctuary of the Friedberg Moravian Church shall be lawful and valid, regardless of whether the marriage license was issued in Forsyth or Davidson County. A record of the marriage shall be recorded in the office of the Register of Deeds for the county in which the marriage license was issued.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of May, 1973.

S. B. 926

CHAPTER 568

AN ACT TO AUTHORIZE THE TOWN OF CARRBORO TO CONVEY CERTAIN PROPERTY TO THE SOUTH ORANGE RESCUE SQUAD, INC.

The General Assembly of North Carolina enacts:

Section 1. The governing body of the Town of Carrboro is hereby authorized to convey to the South Orange Rescue Squad, Inc., upon such terms, conditions, and for such consideration as the governing body shall deem for the best interest of the town, such part of that lot or tract of land herein described as the governing body deems proper and for the best interest of the Town:

Being in Chapel Hill Township, Orange County, BEGINNING at a stake in the southern margin of Fidelity Street in the eastern margin of the Town of Carrboro, North Carolina; and running thence with the said margin of Fidelity Street north 85° 20' east 240.11 feet to an iron stake; thence south 4° 40' east 138.80 feet to a stake; thence with the other property of the Town of Carrboro north 85° 48' west 234.24 feet to a stake; thence north 9° 27' 30" west 103.07 feet to a stake at the point and place of beginning.

Sec. 2. The act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of May, 1973.

S. B. 931

CHAPTER 569

AN ACT TO AUTHORIZE THE BOARD OF TRUSTEES OF WESTERN CAROLINA UNIVERSITY TO COOPERATE WITH JACKSON COUNTY IN THE DEVELOPMENT OF A COUNTY-WIDE SEWER SYSTEM - TRANSFER OF FUNDS.

Whereas, under Chapter 755(4)(V) of the 1969 Session Laws of North Carolina an appropriation was made by the General Assembly to Western Carolina University of five hundred thousand dollars (\$500,000) for an addition to its Sewage Treatment Plant; and

Whereas, Jackson County now purports to develop a county-wide sewer system; and

Whereas, it would be more practical for Western Carolina University to participate in the development of and connect to such county-wide sewer system for this would bring Western Carolina University up to the standards set by the Environmental Protection Agency; and

Whereas, other state universities by and large, due to their locations, have connected with the sewer systems of the cities wherein located; and

Whereas, such transfer of funds would require no new or additional appropriation; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The Board of Trustees of Western Carolina University is hereby authorized to enter into an agreement with the County of Jackson to participate in the development of a county-wide sewer system and for the connecting of the sewer system of Western Carolina University campus to such county-wide sewer system and the Board of Trustees of Western Carolina University is hereby authorized to transfer not more than three hundred fifty thousand dollars (\$350,000) to the Board of Commissioners of the County of Jackson as matching funds for the development of aforesaid county-wide sewer systems; provided, such transfer of funds shall be subject to the approval of the Advisory Budget Commission.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of May, 1973.

H. B. 32

CHAPTER 570

AN ACT TO ESTABLISH A COUNCIL ON SICKLE CELL SYNDROME AND RELATED GENETIC DISORDERS AND TO AUTHORIZE THE STATE BOARD OF HEALTH TO ESTABLISH PROGRAMS FOR EDUCATION, TESTING AND COUNSELLING FOR SICKLE CELL SYNDROME AND RELATED GENETIC DISORDERS.

The General Assembly of North Carolina enacts:

Section 1. A Council on sickle cell syndrome shall be appointed by the Governor to determine the needs and to make recommendations for legislative action with regard to sickle cell syndrome and related genetic disorders.

Sec. 2. In making the appointments, due consideration should be given to persons representing the following areas:

(1) Members of community foundations interested in sickle cell syndrome and related disorders;

- (2) Public Health Officials; Federal, State and local officials from offices concerned with rehabilitation and social services;
- (3) Faculty of Universities and Staff of Hospitals;
- (4) Members of Local and State School Boards;
- (5) Patients with, or relatives of patients with sickle cell disease.

Sec. 3. The Council shall consist of a temporary chairman appointed by the Governor and 14 other members. They shall serve without compensation except for reimbursement for travel and expenses in pursuit of the business of the Council.

Sec. 4. The Council shall be empowered to employ a staff and to obtain office space.

Sec. 5. The work-scope of the Council shall involve the following:

- (1) Assess the needs of the State with regard to:
 - a. Education of the people about sickle cell syndrome and related genetic disorders;
 - b. Personnel and facilities available for the treatment of patients with sickle cell syndrome and related genetic disorders;
 - c. Mechanisms for assisting in the payment of medical expenses incurred by sickle cell syndrome and related genetic disorders;
 - d. Rehabilitation of patients with sickle cell syndrome and related genetic disorders;
 - e. Discrimination against patients with sickle cell syndrome in employment, insurance and other activities;
 - f. Establishment of centers for testing for sickle cell syndrome and related genetic disorders;
 - g. Special education and counsel of those tested in such centers;
 - h. Research in the diagnosis and treatment of sickle cell syndrome and other related genetic disorders;
 - i. Critique of present organizations with interest in sickle cell disease.
- (2) The Council shall study programs currently active concerning sickle cell syndrome and related genetic disorders and shall make recommendations for legislation which would coordinate the currently active programs with those recommended in the "work-scope of the Council".
- (3) The Council shall consult with and advise the North Carolina State Board of Health regarding the establishment of programs for and the promulgation of rules and regulations governing education, voluntary testing and adequate counselling for sickle cell syndrome and related genetic disorders.
- (4) Upon completion of the study, the Council shall recommend to the Legislature such appropriate legislation as will best serve the needs of the people of North Carolina with regard to sickle cell syndrome and related genetic disorders.

Sec. 6. The North Carolina State Board of Health is hereby authorized, after consultation with the Council on sickle cell syndrome, to promulgate rules and regulations providing for the establishment and operation of programs providing education, voluntary testing, and adequate counselling for sickle cell syndrome and related genetic disorders. "Sickle cell syndrome" includes sickle cell disease, sickle cell trait, sickle cell thalassemia, and variants.

Sec. 7. The State Health Director is hereby authorized to initiate pilot programs for education, voluntary testing, and counselling for and about sickle cell syndrome and related genetic disorders.

Sec. 8. If any individual is found to have any aspect of the sickle cell syndrome or related genetic disorders, it shall be the duty of the local health department to inform the individual to that effect. It shall be the duty of the North Carolina State Board of Health to make available testing and counselling services to any persons so requesting testing relative to sickle cell syndrome or related genetic disorders, their characteristics, symptoms, traits, effects and treatments. Such testing and counselling by the North Carolina State Board of Health and local health departments shall be furnished without cost to persons requesting it.

Sec. 9. Any program for voluntary testing shall begin no sooner than 60 days after the implementation of an adequate and effective educational program. Counselling shall be done only by persons adequately trained and certified according to criteria established by recognized authorities in the field of human genetics.

Sec. 9 1/2. Effective July 1, 1974, the Council is transferred to the Department of Human Resources, and the function of the Council shall be carried out by said Department in the same manner as provided in Section 9 and each subsection of the same as appears in Chapter 476 of the 1973 Session Laws, and the codifiers of the Statutes shall insert the appropriate General Statute Chapter and Section.

Sec. 10. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of May, 1973.

H. B. 73

CHAPTER 571

AN ACT TO AMEND G.S. 7A-101 CONCERNING THE COMPENSATION OF CLERKS OF SUPERIOR COURT AND G.S. 7A-172 CONCERNING THE COMPENSATION OF MAGISTRATES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-101(a) is amended by rewriting the table therein to read as follows:

"Population	Salary
Less than 10,000	\$ 9,900.00
10,000 to 19,999	12,500.00
20,000 to 49,999	15,000.00
50,000 to 99,999	17,000.00
100,000 to 199,000	19,800.00
200,000 and above	24,000.00"

Sec. 2. G.S. 7A-101(b) is rewritten to read as follows:

"At the beginning of each fiscal year the Administrative Officer of the Courts may, in his discretion, recommend to the Advisory Budget Commission an increase in the annual salary of any clerk of superior court, but the annual salary increase, if approved by the Advisory Budget Commission, shall not exceed ten percent (10%) of the salary received by that clerk for the preceding year, and the total of annual increases shall not cause the clerk's total salary to exceed the salary set forth in subsection (a) for clerks in the next higher population group. The total of annual raises for any clerk in the 200,000 and above population group shall not exceed twenty percent (20%) of the salary set forth in subsection (a) for clerks in that group.

A recommended increase in the salary of the clerk shall be based on a finding by the Administrative Officer of the Courts of one or more of the following:

(a) The records and reports of the clerk meet high standards of completeness, accuracy, and timeliness, and the operations of the clerk's office are discharged with exceptional efficiency and economy; or

(b) The responsibilities of the clerk, due to rapid population growth or rapid increase in judicial business, have increased above the average for clerks in his salary grouping.

The decision of the Advisory Budget Commission under this subsection shall be final. This subsection shall not apply to a clerk who has served less than one year in office."

Sec. 3. G.S. 7A-172 is amended by deleting "seven thousand nine hundred and forty-four dollars (\$7,944)", and inserting in lieu thereof "eight thousand seven hundred and sixty dollars (\$8,760)".

Sec. 4. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 17th day of May, 1973.

H. B. 96

CHAPTER 572

AN ACT TO ALLOW LAW ENFORCEMENT OFFICERS TO TRANSFER MEMBERSHIP IN THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM OR THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM TO THE LAW ENFORCEMENT OFFICERS' BENEFIT AND RETIREMENT FUND.

Whereas, certain law enforcement officers who are presently members of the Teachers' and State Employees' Retirement System or the Local Governmental Employees' Retirement System were not permitted to elect to become members of the Law Enforcement Officers' Benefit and Retirement Fund instead of the Teachers' and State Employees' Retirement System or the Local Governmental Employees' Retirement System; and

Whereas, there exists a need for all law enforcement officers a uniform Benefit and Retirement Fund with increased benefits for all; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. All law enforcement officers as defined in G.S. 143-166(m), and who are now contributing members of the Teachers' and State Employees' Retirement System or the Local Governmental Employees' Retirement System are hereby allowed until June 30, 1974, in which to transfer their membership in the Teachers' and State Employees' Retirement System or the Local Governmental Employees' Retirement System and become members of the Law Enforcement Officers' Benefit and Retirement Fund.

Sec. 2. Upon written request of a law enforcement officer who meets the requirements of Section 1, filed with the Board of Trustees of the Teachers' and State Employees' Retirement System or the Board of Trustees of the Local Governmental Employees' Retirement System stating that he desires to transfer his membership in the Teachers' and State Employees' Retirement System or the Local Governmental Employees' Retirement System and become a member of the Law Enforcement Officers' Benefit and Retirement Fund, the Board of Trustees of the Teachers' and State Employees' Retirement System or the Local

Governmental Employees' Retirement System is hereby authorized, empowered, and directed to transfer to the proper official of the Law Enforcement Officers' Benefit and Retirement Fund:

(1) All of the employee's accumulated contributions that were made on compensation received as a law enforcement officer, together with the accumulated regular interest thereon, standing to the credit of such employee in the Teachers' and State Employees' Retirement System or the Local Governmental Employees' Retirement System; and

(2) All accumulated contributions that were made because of service rendered as a law enforcement officer, together with the accumulated regular interest thereon, which have been made to the Teachers' and State Employees' Retirement System or the Local Governmental Employees' Retirement System on behalf of such employee by his employer. Upon such transfer being made, the officer shall immediately become a member of the Law Enforcement Officers' Benefit and Retirement Fund and the service transferred shall no longer be creditable in the Teachers' and State Employees' Retirement System or the Local Governmental Employees' Retirement System.

Sec. 3. The Board of Commissioners of the Law Enforcement Officers' Benefit and Retirement Fund is hereby authorized, empowered, and directed to receive any funds transferred as provided in this act, and to receive for the purpose of enabling the transferring employee to obtain credit for approved service prior to the date of his membership in the System from which he is transferring, any additional lump sum contribution made by or on behalf of employees transferring their membership from the Teachers' and State Employees' Retirement System or the Local Governmental Employees' Retirement System to the Law Enforcement Officers' Benefit and Retirement Fund. The transferring law enforcement officer's creditable law enforcement service that accrued while a member of the Teachers' and State Employees' Retirement System or the Local Governmental Employees' Retirement System shall be deemed to be eligible service in the Law Enforcement Officers' Benefit and Retirement Fund.

Sec. 4. The creditable service of an officer who transfers to the Law Enforcement Officers' Benefit and Retirement Fund shall be determined as follows:

(1) Upon receipt of a transferring officer's accumulated employee contributions, such contributions shall be deposited in the officer's regular contributions account and full credit shall be given for all service as a law enforcement officer subsequent to the effective date of membership in the Teachers' and State Employees' Retirement System or the Local Governmental Employees' Retirement System.

(2) Upon receipt of a transferring officer's accumulated employer contributions, such contributions shall be deposited in the officer's special contributions account, except that any accumulated employer contributions in excess of the amount of the accumulated employee contributions may be used by the officer to acquire credit for service prior to membership in the Teachers' and State Employees' Retirement System or the Local Governmental Employees' Retirement System and for which credit for said service was allowed.

(3) Credit for any portion of service as an officer prior to the effective date of membership in the Teachers' and State Employees' Retirement System or the Local Governmental Employees' Retirement System and for which credit was

allowed by the Teachers' and State Employees' Retirement System or the Local Governmental Employees' Retirement System may be obtained in the Law Enforcement Officers' Benefit and Retirement Fund. The cost for such credit shall be additional regular contributions equal to five percent (5%) of compensation received during the period of service for which credit is acquired. Application for said credit must be made by June 30, 1974 and a lump sum payment of any additional regular contributions must be made by December 31, 1974.

Sec. 5. The Board of Commissioners of the Law Enforcement Officers' Benefit and Retirement Fund is authorized and empowered to make and promulgate suitable rules and regulations to carry out the provisions of this act.

Sec. 6. This act shall become effective immediately upon ratification and subject to the availability of an appropriation of funds adequate for funding on an actuarially sound basis.

In the General Assembly read three times and ratified, this the 17th day of May, 1973.

H. B. 591

CHAPTER 573

AN ACT TO PROVIDE THAT COUNTIES SHALL PAY CERTAIN BENEFITS FOR NURSING HOME CARE.

The General Assembly of North Carolina enacts:

Section 1. Any provisions in any appropriation act for the 1973-74 fiscal year to the contrary notwithstanding, all allowable costs during the 1973-75 biennium for nursing home care for the medically needy or categorically needy, in excess of eighteen dollars and fifty cents (\$18.50) per day, to the extent of the nonfederal portion of such excess costs, shall be paid by the counties for their eligible recipients; provided, however, that total allowable costs to be paid shall not exceed twenty-five dollars (\$25.00) per day.

Sec. 2. Chapter 1242 of the Session Laws of 1971 providing for the payment of certain nursing home benefits by the counties is hereby repealed.

Sec. 3. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 17th day of May, 1973.

H. B. 280

CHAPTER 574

AN ACT TO PROVIDE FINANCIAL SUPPORT FOR CONSOLIDATION OF PUBLIC HEALTH SERVICES AND UPGRADING OF PUBLIC HEALTH PERSONNEL.

The General Assembly of North Carolina enacts:

Section 1. This act shall be known and may be cited as the "Consolidation and Health Personnel Support Act of 1973".

Sec. 2. The General Assembly finds and declares that economic waste and poor quality of services has resulted from the fragmentation of public health provider units and from the inability of some local governmental units to offer competitive salaries to public health personnel. The General Assembly further finds that conversion to larger provider units and upgrading of pay scales for public health personnel is urgently needed in order to provide essential services and procure competent personnel to protect the health of the citizenry.

Recognizing that consolidation of providers and rapid upgrading of salaries involves expense beyond the ability of many counties, the General Assembly intends, hereby, to provide the necessary financial support to achieve consolidation and salary upgrading.

Sec. 3. There is hereby appropriated from the General Fund of the State of North Carolina two million dollars (\$2,000,000) for the 1973-74 fiscal year to the North Carolina State Board of Health to be used, in its discretion, to offset start-up, change over and other expenses of local units who consolidate, or are required to consolidate, their health services, or who contract for direct State provision of services as provided by law, and to help counties in upgrading the salaries of public health personnel.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of May, 1973.

H. B. 378

CHAPTER 575

AN ACT APPROPRIATING SUPPLEMENTARY FUNDS TO THE NORTH CAROLINA AGRICULTURAL EXPERIMENT STATION FOR RESEARCH STUDIES ON THE IMPACT OF ENVIRONMENTAL AND BIOLOGICAL FACTORS OF APPLE PRODUCTION IN NORTH CAROLINA.

Whereas, North Carolina has established itself as one of the leading apple producing states in the nation (now ranking 6th nationally, in total production and 4th in the production of fresh market apples); and

Whereas, apples represent a major contribution toward making horticultural crops the 4th leading income producing industry in the State; and

Whereas, apple production income is projected to double by 1975, reaching a total value of thirty million dollars (\$30,000,000); and

Whereas, the control and modification of environmental and biological factors are becoming more critical, it is necessary that techniques be developed for biologically controlling pests, for altering the influence of environmental extremes and to insure continued adaptability and market competitiveness of North Carolina's apple industry; and

Whereas, the consumer demand and competitiveness of the apple market situation demands an increasingly high standard of fruit quality necessitating continued cultural improvement, the development of techniques to improve and extend shelf-life and additional fruit disease research to meet the demand for totally disease-free fruit; and

Whereas, the greatest limiting factor in maintaining a viable apple industry in North Carolina is the need to continually update knowledge and develop new technology to maintain the competitiveness in light of increased environmental awareness and concerns; and

Whereas, the apple research resources needed to meet these industry demands extend far beyond those presently available in terms of manpower, technical assistance, equipment and operating funds of the North Carolina Agricultural Experiment Station; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund of the State of North Carolina through the North Carolina Agricultural Experiment

Station, at North Carolina State University, to the Departments of Entomology, Horticultural Science, Plant Pathology, and Zoology, in addition to all other appropriations, a total sum of one hundred twenty-nine thousand six hundred eighty dollars (\$129,680) for the fiscal year beginning July 1, 1973, and ending June 30, 1974, for the purpose of conducting apple research as set forth in the preamble of this act and according to the following schedule:

North Carolina Agricultural Experiment Station

Requirements for research studies on the impact of environmental and biological factors associated with apple production.

1.	To purchase equipment in support of the apple research effort in the Dept. of Entomology.	\$3,500	\$3,500
2.	To purchase equipment in support of the apple research effort in the Dept. of Horticultural Science.	\$20,000	\$20,000
3.	To purchase equipment in support of the apple research effort in the Dept. of Plant Pathology.	\$2,500	\$2,500
	Sub Total	\$26,000	\$26,000
C. Maintenance and Operations:			
1.	To increase support of the apple research effort in the Dept. of Entomology.	\$5,500	\$5,500
2.	To increase support of the apple research effort in the Dept. of Horticultural Science.	\$19,000	\$19,000
3.	To increase support of the apple research effort in the Dept. of Plant Pathology.	\$2,500	\$2,500
	Sub Total	\$27,000	\$27,000
	Grand Total	\$129,680	\$129,680

Sec. 2. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 17th day of May, 1973.

H. B. 380

CHAPTER 576

AN ACT TO AUTHORIZE THE MERGER OF MITCHELL COLLEGE OF IREDELL COUNTY INTO THE NORTH CAROLINA COMMUNITY COLLEGE SYSTEM AND TO PROVIDE FUNDS FOR CONVERTING IT TO A COMPREHENSIVE COMMUNITY COLLEGE.

The General Assembly of North Carolina enacts:

Section 1. The State Board of Education is authorized and empowered to grant the joint or several requests and applications of the Board of County Commissioners of Iredell County, the Board of Education of Iredell County, and the Board of Trustees of Mitchell College, a nonsectarian, private, academic college in Iredell County, for conversion of said Mitchell College to a public, tax-supported comprehensive community college and its admission to institutional

membership in the North Carolina Community College System subject to the following terms and conditions:

(1) That Mitchell College shall be reconstituted, reorganized, administered, and operated conformable to the provisions of Chapter 115A of the General Statutes of North Carolina and shall be developed as rapidly as possible into a comprehensive community college, as therein defined, under the corporate name "The Board of Trustees of Mitchell Community College" and shall be a public, tax-supported agency of the County of Iredell as provided by Chapter 115A of the General Statutes of North Carolina for similar institutions of the North Carolina Community College System.

(2) That immediate emphasis shall be given to the initiation and expansion of vocational and technical training programs, adult basic education, adult high school academic education, and general adult education in order to achieve the major purpose of a comprehensive community college conformable to provisions of G.S. 115A-1 and G.S. 115A-2.

(3) That the present corporate board of trustees of Mitchell College shall execute proper deeds of conveyance and other legal documents necessary to transfer, grant, or convey to the Board of Trustees of Mitchell Community College all the real property, personal property, and all other assets, both tangible and intangible, owned by or in anywise belonging to the present corporate board of trustees of Mitchell College and shall deliver the same to the County Attorney of Iredell County who shall hold the deeds and documents in escrow for the Board of Trustees of Mitchell Community College and shall on or about July 2, 1973, have the said deeds and documents duly recorded and registered and thereafter shall deliver the original deeds and documents to the Chairman of the Board of Trustees of Mitchell Community College at the first meeting of said Board of Trustees of Mitchell Community College.

(4) That, at 12:00 midnight on June 30 next following the approval by the State Board of Education and the acceptance of said deeds of conveyance and documents of transfer by the County Attorney of Iredell County to be held by said County Attorney in escrow for and on behalf of the Board of Trustees of Mitchell Community College all such property shall be and become vested in the Board of Trustees of Mitchell Community College to be held by the said board of trustees forever in fee simple absolute.

(5) That on June 30 at 12:00 midnight following the approval by the State Board of Education and the acceptance in escrow of the deeds and documents aforementioned for and on behalf of the Board of Trustees of Mitchell Community College as aforesaid, all of the existing lawful debts, deficits, judgments, claims or other lawful liabilities of the present corporate board of trustees of Mitchell College shall be assumed by and become obligations of the Board of County Commissioners of Iredell County which Board of County Commissioners is hereby authorized and empowered to provide from tax funds or from nontax funds for the settlement, liquidation and extinction of such obligations and liabilities of the present corporate board of trustees of Mitchell College to the end that none of such liabilities shall become obligations of the State Board of Education or of the Board of Trustees of Mitchell Community College.

Sec. 2. Funds appropriated for this purpose are to be administered by the State Board of Education through the Department of Community Colleges budgets, along with any other funds which may be available, to provide

operating budget formula funding allocations and equipment budget formula funding allocations needed to support equipping and operating Mitchell Community College as a comprehensive community college.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of May, 1973.

H. B. 471

CHAPTER 577

AN ACT TO PROVIDE SCHOLARSHIPS FOR CHILDREN OF PRISONERS OF WAR AND MISSING IN ACTION VETERANS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 165-22, as the same appears in the 1972 Replacement Volume 3D of the General Statutes, is hereby amended by adding a new subdivision (5) to read as follows:

“(5) Class IV: Under this class a scholarship as defined in G.S. 165-21 shall be awarded to any child whose parent, while serving honorably as a member of the armed forces of the United States in active federal service during a period of war, as defined in G.S. 165-20(4), was listed by the United States Government for a total of more than 90 days as (i) missing in action, (ii) captured in line of duty by a hostile force, or (iii) forcibly detained or interned in line of duty by a foreign government or power.”

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of May, 1973.

H. B. 486

CHAPTER 578

AN ACT TO AMEND CHAPTER 118 OF THE GENERAL STATUTES OF NORTH CAROLINA RELATING TO THE FIREMEN'S PENSION FUND.

The General Assembly of North Carolina enacts:

Section 1. Chapter 118 of the General Statutes is amended by adding a new section in Article 3 following G.S. 118-24, to be designated as Section 118-24.1, and to read as follows:

“§ 118-24.1. *Retroactive membership.*—Any fireman who is now eligible and who has not previously elected to become a member may make application through the board of trustees heretofore created for membership in said fund on or before June 30, 1974; provided, that such person shall make a lump sum payment of five dollars (\$5.00) per month retroactively to the time he first became eligible to become a member, plus interest at an annual rate of four percent (4%) for each year of his retroactive payments. Upon making such lump sum payment, such person will be given credit for all prior service in the same manner as if he had made application for membership at the time he first became eligible; provided, further, that any member who made application for membership subsequent to the time he was first eligible and did not receive credit for prior service may receive credit for such prior service upon lump sum payment of five dollars (\$5.00) per month retroactively to the time he first became eligible, plus interest at an annual rate of four percent (4%) for each year of his retroactive payments. Upon making such lump sum payments, the date of

membership would be the same as if he had made application for membership at the time he was first eligible.”

Sec. 2. Nothing in the act shall be construed as modifying or changing any provisions of Article 3 of Chapter 118 of the General Statutes except as herein expressly provided.

Sec. 3. This act shall become effective upon ratification and subject to the availability of an appropriation of funds adequate for funding on an actuarially sound basis.

In the General Assembly read three times and ratified, this the 17th day of May, 1973.

H. B. 518

CHAPTER 579

AN ACT APPROPRIATING ONE MILLION DOLLARS, ON A MATCHING BASIS, TO COUNTIES AND MUNICIPALITIES MAINTAINING CARRIER AIRPORTS.

Whereas, owners of air carrier airports make a major contribution to the economic development of North Carolina; and

Whereas, the financial burden of maintaining and operating such facilities continues to place a major financial burden on the counties and municipalities that own and operate carrier airports which serve air carriers and general aviation needs; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated out of the General Fund of the State the sum of one million dollars (\$1,000,000) for fiscal year 1973-74 to the Department of Transportation. Said sum shall be expended, on a matching basis, by grant to counties and municipalities in the State which operate, maintain or support carrier airports, as defined by the Federal Aviation Administration. Such sums as are granted by the Department of Transportation to carrier airports may be used for the purchase and condemnation of land and easements, paving of runways and taxiways, to provide runway lights and approach facilities (visual and electronic), to provide necessary security needs, to purchase firefighting equipment, for construction of passenger terminal buildings and for such other purposes as are directly related to the maintenance and operation of said airports.

Before any sums appropriated by this act are granted to any carrier airport, an application shall be made by such carrier airport to the Department of Transportation on a form prepared by said Department and such application shall be considered and approved in accordance with policies and procedures established by the Department of Transportation, not inconsistent with the provisions of this act.

Sec. 2. The total amount of such grants to any one carrier airport shall not exceed \$100,000.

Sec. 3. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 17th day of May, 1973.

H. B. 549 CHAPTER 580

AN ACT TO PROVIDE FOR THE PUBLIC SCHOOL EDUCATION OF CHILDREN WITH LEARNING DISABILITIES IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. There is hereby established within the public school system a program for the education of children with learning disabilities.

Sec. 2. As used in this act:

(1) The term "Section Director" means the Director of the Section for the Education of Children with Learning Disabilities within the public school system.

(2) The term "learning disability" means children who exhibit a disorder in one or more of the basic psychological or physiological processes involved in understanding and in using spoken or written languages. These may be manifested in disorders of listening, thinking, talking, reading, writing, spelling, or arithmetic. They include, but are not limited to, conditions which have been referred to as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, and/or developmental aphasia. They do not include learning problems which are due primarily to visual, hearing, mental retardation, emotional disturbance, or motor handicaps.

(3) The term "State Board" means the State Board of Education.

(4) The term "State Superintendent" means the State Superintendent of Public Instruction.

Sec. 3. There is hereby created within the State Department of Public Instruction a Section to be known as the Section for the Education of Children with Learning Disabilities.

Sec. 4. The Section for the Education of Children with Learning Disabilities within the public school system shall be administered by a Section Director under the general supervision of the State Superintendent. The Section Director shall be appointed by the State Superintendent subject to the approval of the State Board. The salary of the Section Director shall be determined by the State Personnel Board upon recommendation of the State Board and shall be adequate to obtain a person highly trained and qualified by reason of education and experience in the area of dealing with children with learning disabilities. The State Board is authorized to provide the Section Director with such assistance, clerical help, and travel allowances as it may determine necessary to carry out the responsibilities of the office of Section Director under this act.

Sec. 5. The Section Director shall recommend and the State Superintendent appoint, with the approval of the State Board, a supervisor for testing and pupil classification who shall, in cooperation with existing testing and pupil classification services of the Department of Public Instruction, be charged with the responsibility of testing and evaluating all children in the public school system, or who are of compulsory school attendance age, for the purpose of identifying children with learning disabilities. Said supervisor shall be a person well trained in testing and diagnosis of learning disabilities and professionally qualified to carry out this responsibility. In addition, the Section Director shall recommend and the State Superintendent appoint with the approval of the State Board, such specialists as may be necessary for adequate counseling and identification of those children with learning disabilities

throughout the State; and the State Board shall provide necessary funds for office expense and travel for the conduct of their work.

Sec. 6. In each of the three regional centers staffed by the State Department of Public Instruction, appropriate programs of education for children with learning disabilities shall be established and developed by a district supervisor of education for children with learning disabilities. These regional consultants shall be recommended by the Section Director and shall be well trained and experienced in the area of learning disabilities. These regional consultants shall be provided funds for office expense and travel allowances. Their duties shall include assistance to local administrative units in planning programs and developing curricula for children with learning disabilities.

Sec. 7. The Section Director, under the direction of the State Board and in accordance with the rules and regulations prescribed by it, is authorized to perform such other powers and duties as the Board may prescribe for the implementation of the purposes of this act, including the following:

(1) Research studies which will develop techniques, curricula, and materials especially applicable to children with learning disabilities;

(2) Recommendation of special books, materials, and other supplies to be purchased by the State Board for the proper implementation of this act, including the local programs provided in Section 8;

(3) Direction of the regional education consultants provided for in Section 6 in the development of proper curriculum and studies to fit the individual needs of children with learning disabilities within the district of the supervisor and of the local administrative units within such districts; and

(4) Establishment of standards for the teachers of children with learning disabilities to be employed or paid in whole or in part pursuant to the provisions of this act and to give such examinations or tests as may be necessary to determine such qualifications.

Sec. 8. The Superintendent of any school administrative unit may submit to the Section Director a proposal, including any program already in operation, for a local program for the education of children with learning disabilities in that administrative unit. If such proposal is approved by the Section Director in accordance with rules and regulations to be prescribed by the State Board for qualification of local programs under this act, there shall be allocated by the State Board out of the Nine Months' School Fund to the school administrative unit such funds as may be necessary to carry out the program. Such programs may include additional teachers, special materials and books, plans for identifying and guiding pupils with learning disabilities, or other items of excess cost not properly borne by the local unit, provided that such amount allocated shall not exceed a maximum amount for each participant pupil to be fixed by the State Board. Teachers for such approved local programs may be allotted out of the teachers provided for by the Nine Months' School Fund provided such allotments may be in addition to the regular teacher allotment to the administrative unit involved. Two or more administrative units may join together for the purpose of operating such a program, under the direction of the Section for the Education of Children with Learning Disabilities.

Sec. 9. There is hereby appropriated to the Nine Months' School Fund for the fiscal year 1973-74 the sum of eight hundred sixty-five thousand dollars (\$865,000) for the implementation of the program for the education of children with learning disabilities in the public school system provided by this act. The

State Board shall transfer from this appropriation to the Department of Public Instruction the amounts the State Board deems to be required for the functions provided in Sections 3, 4, 5, 6, and 7 of this act. The remainder of this appropriation shall be used for the allocations for approved local programs provided for in Section 8 of this act; provided that said allocations shall be over and above amounts which are available for implementation of these local programs from the regular allotments made from the Nine Months' School Fund to administrative units.

Sec. 10. This act shall become effective on July 1, 1973.

In the General Assembly read three times and ratified, this the 17th day of May, 1973.

H. B. 556

CHAPTER 581

AN ACT TO AMEND ARTICLE 18 OF CHAPTER 116 OF THE GENERAL STATUTES OF NORTH CAROLINA WITH RESPECT TO CREDIT ON SCHOLARSHIP LOANS FOR TEACHING IN SCHOOLS ON MILITARY RESERVATIONS.

The General Assembly of North Carolina enacts:

Section 1. Article 18, G.S. 116-174(4), first sentence, is hereby amended to read as follows:

"Except under emergency conditions applicable to the State Superintendent of Public Instruction, recipients of scholarship loans shall enter the public school system of North Carolina or shall become regularly employed as teachers in schools operated by the United States Government on military reservations in the State of North Carolina at the beginning of the next school term after qualifying for a teacher certificate based upon the bachelor's degree or in case of persons already teaching in the public schools or in schools operated by the United States Government on military reservations in North Carolina at the beginning of the next school term after the use of such loan."

Sec. 2. Article 18, G.S. 116-174(5) is amended to read as follows:

"For each full school year taught in a North Carolina public school or in a school operated by the United States Government on the military reservation in the State of North Carolina, the recipient of a scholarship loan shall receive credit upon the amount due by reason of such loan equal to all interest accrued upon the loan to that time plus a credit of three hundred fifty dollars (\$350.00) upon the principal amount of such obligation or such lesser amount as may remain due upon said principal; provided, however, that in lieu of teaching in the public school or in any school operated by the United States Government on a military reservation in North Carolina, a recipient may elect to pay in cash the full amount of scholarship loans received plus interest then due thereon or any part thereof which has not been cancelled by the State Board of Education by reason of teaching service rendered."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of May, 1973.

H. B. 573

CHAPTER 582

AN ACT TO CONSOLIDATE THE TWO CAMPUSES OF THE GOVERNOR MOREHEAD SCHOOL INTO THE ASHE AVENUE, RALEIGH, NORTH CAROLINA, CAMPUS.

Whereas, the Governor Morehead School consists of two campuses, one on Garner Road, Raleigh, North Carolina, serving approximately 86 deaf children (the remainder being blind), the second on Ashe Avenue, Raleigh, North Carolina, serving all blind students and no deaf students; and

Whereas, the State has in full operation two schools for the deaf, one in Morganton and one in Wilson; and

Whereas, a new school for the-deaf is presently under construction in Greensboro; and

Whereas, the few deaf students at the Garner Road campus could be transferred to the other State schools for the deaf; and

Whereas, the board of directors of the Governor Morehead School has gone on record favoring a consolidation of the present two campuses into the Ashe Street Campus; and

Whereas, it is estimated that a consolidation of the two campuses would save the taxpayers of North Carolina in excess of two hundred twenty-five thousand dollars (\$225,000) annually and at the same time increase the advantages afforded the blind children of the State; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. No later than July 1, 1977, the two campuses which presently serve the Governor Morehead School shall be consolidated and merged into the Ashe Avenue, Raleigh, North Carolina, campus.

Sec. 2. Upon consolidation of the Governor Morehead School into the Ashe Avenue campus, all deaf children currently enrolled in the Governor Morehead School shall be transferred to the other schools operated by the State for the deaf and the Governor Morehead School shall no longer be responsible for providing educational benefits for deaf children.

Sec. 3. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 17th day of May, 1973.

H. B. 593

CHAPTER 583

AN ACT TO APPROPRIATE TO THE LEGISLATIVE SERVICES COMMISSION FUNDS TO PRODUCE AN INFORMATIONAL MOVIE OF THE NORTH CAROLINA LEGISLATIVE PROCESS.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund for the 1973-74 fiscal year the sum of twenty-five thousand dollars (\$25,000) to the North Carolina Legislative Services Commission to be used for the production of an informational movie of the North Carolina State Legislative Process.

Sec. 2. The North Carolina Legislative Services Commission shall have the sole responsibility for producing an informational movie on the North Carolina Legislative Process. The movie shall be in color, with sound, with professional actors where applicable and shall be 30 or 40 minutes in duration. In addition, the movie shall not deal with any temporary issue but shall be

timeless in nature and be suitable to be shown to school children or any other interested person. The movie, when completed, shall be shown daily to visitors at the Legislative Building in Raleigh, North Carolina, and sufficient copies made available upon request to groups throughout the State.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of May, 1973.

H. B. 546

CHAPTER 584

AN ACT TO PROVIDE DIRECT GRANTS FOR COMMUNITY PROGRAMS FOR EMOTIONALLY DISTURBED CHILDREN.

Whereas, the Senate in Senate Resolution 871 of 1971 has directed the Legislative Research Commission to make a complete in-depth study of the Department of Mental Health and related programs and to make recommendations to the General Assembly; and

Whereas, the Legislative Research Commission has reported its finding that mental health problems such as inadequacy of present services for emotionally disturbed children can and should be solved by increasing the responsibility of community mental health programs; and

Whereas, the Legislative Research Commission has recommended that additional incentives be offered to units of local government to begin or expand community mental health programs by means of increasing the State share of costs of such programs; and

Whereas, the Legislative Research Commission has found that programs for emotionally disturbed children in the State are grossly inadequate, and has recommended expanding such programs with an emphasis on treatment in the community and avoidance of institutionalization where possible; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Short title. This act may be cited as the Children's Community Mental Health Act of 1973.

Sec. 2. Purpose of act. The purpose of this act is to provide an increased incentive for units of local government of the State to initiate and expand community programs for emotionally disturbed children by means of direct State grants-in-aid.

Sec. 3. Amendments. Article 2A of Chapter 122 of the North Carolina General Statutes is hereby amended by inserting the following section:

"§ 122-35.13. Direct grants to local mental health authorities for services to emotionally disturbed children. From State and federal funds available to the Department of Mental Health, the Department shall make direct grants to local mental health authorities for the sole purpose of programs of direct service to emotionally disturbed children which shall be in addition to the matching grants provided elsewhere in this Article. Such grants shall be awarded on the basis of need and shall have as their objective the treatment of the maximum number of emotionally disturbed children in the community rather than in institutions."

Sec. 4. Appropriation. There is hereby appropriated from the General Fund to the State Department of Mental Health the sum of \$280,000 for the 1973-74 fiscal year for the purpose of direct grants to local mental health

authorities for service to emotionally disturbed children as provided by Section 3 of this act. These appropriations shall be reduced by whatever amount the 1973 General Assembly shall otherwise appropriate for these purposes.

Sec. 5. Effective date. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 18th day of May, 1973.

H. B. 611**CHAPTER 585**

AN ACT TO APPROPRIATE \$425,197 TO THE DEPARTMENT OF HUMAN RESOURCES TO SUPPORT A PROGRAM OF IMPROVED MEDICAL SERVICE AND EDUCATION IN EASTERN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund of the State to the Sanatorium System of the Department of Human Resources, for the purpose of supporting a program of improved medical service and education at Eastern North Carolina Sanatorium at Wilson, the following sums for the fiscal years indicated:

for 1973-74 \$ 425,197

Sec 2. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 18th day of May, 1973.

H. B. 791**CHAPTER 586**

AN ACT TO AMEND ARTICLE 22 OF CHAPTER 115 OF THE GENERAL STATUTES TO PROVIDE FOR THE TRANSPORTATION OF ELEMENTARY AND HIGH SCHOOL STUDENTS IN SEPARATE BUSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115-180 is amended by inserting the following sentence after the first sentence as follows:

"Boards of education which own and operate school buses for the transportation of pupils shall have authority to establish separate systems of transportation for pupils attending elementary schools and for pupils attending junior or senior high schools."

Sec. 2. Funds appropriated for this purpose shall be allocated to the respective county and city boards of education to implement the purposes of this act in accordance with the requirements of such boards as determined by the State Board of Education.

Sec. 3. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 18th day of May, 1973.

H. B. 853

CHAPTER 587**AN ACT TO ESTABLISH A STATE DRUG EDUCATION PROGRAM.***The General Assembly of North Carolina enacts:*

Section 1. Pursuant to G.S. 90-113.4, G.S. 143-473 and this act, the North Carolina Drug Authority shall establish a State Drug Education Program. This program shall consist of the following:

(1) drug prevention education and training for public school teachers, counselors and administrators;

(2) drug prevention education and training for community organizations and county/community resource personnel;

(3) development of a drug education curriculum for use by teachers in the public schools of the State.

Sec. 2. All funds appropriated to the North Carolina Drug Authority for the above stated purposes shall be used to contract with existing public agencies and/or private nonprofit corporations for implementation of the program. In no case shall the North Carolina Drug Authority undertake to implement the program.

Sec. 3. Contracts with existing public agencies and/or private nonprofit corporations shall be instituted to achieve the following goals of a State Drug Education Program:

(1) to provide drug prevention education training for public school teachers, counselors and administrators. This program shall familiarize teachers, counselors and administrators with the youth drug culture by instruction in basic drug information, the legal aspects of drug abuse, alternatives to drug usage and methods of correlating health information, value development, coping skills and decision-making skills into the general curriculum. Said program shall be consonant with the North Carolina State Plan for Drug Abuse Prevention and approved by the North Carolina Drug Authority.

(2) implementation of a community resource development program. This program shall develop systems on a county level for drug abuse prevention/education/treatment programs through training of county agency and organization personnel at the local level. This program shall also offer drug prevention education to private citizens and local community groups.

(3) to develop a curriculum for all grades which will integrate education in health, value development, coping skills and decision-making skills throughout the general school curriculum.

Sec. 4. In implementing the State Drug Education Program, the object shall be for all facets of the program to have a statewide effect, with emphasis on those geographic areas and localities where in the opinion of the North Carolina Drug Authority, the need for such programs is greatest.

Sec. 5. Prior to the expenditure of the funds for any program authorized by this act, the North Carolina Drug Authority shall approve said program and insure that said program and services funded are consonant with the North Carolina State Plan for Drug Abuse Prevention. Any deviation by a contractee of the Drug Authority from the program approved by the authority shall be grounds for termination of the contract and renovation of funding.

Sec. 6. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 18th day of May, 1973.

H. B. 854

CHAPTER 588

AN ACT PROVIDING THAT ALL APPROPRIATED DRUG ABUSE PROGRAM MONIES FROM THE NORTH CAROLINA GENERAL ASSEMBLY OR THE UNITED STATES CONGRESS BE APPROVED BY THE NORTH CAROLINA DRUG AUTHORITY.

The General Assembly of North Carolina enacts:

Section 1. All drug abuse prevention, education, treatment, rehabilitation and evaluation programs which are implemented after June 30, 1973, with appropriated monies from the North Carolina General Assembly or the United States Congress shall be implemented only after approval by the North Carolina Drug Authority. Before any agency or organization, public or private, shall receive approval for program implementation from the North Carolina Drug Authority, the Authority shall determine that such programs are consonant with the North Carolina State Plan for Drug Abuse Prevention.

Sec. 2. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 18th day of May, 1973.

H. B. 867

CHAPTER 589

AN ACT TO PROVIDE FOR AN INCREASE IN PENSIONS AND RETIREMENT ALLOWANCES PAYABLE TO CERTAIN FORMER TEACHERS AND STATE EMPLOYEES.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated for the 1973-1974 fiscal year out of the General Fund of the State to the Teachers' and State Employees' Retirement System, such sums as are hereinafter specified to accomplish the following purposes:

(1) An appropriation of twenty-six thousand seven hundred and forty-five dollars (\$26,745) to increase by twenty percent (20%) per month pensions to be paid public school teachers and State employees with twenty or more years of service, who separated from service prior to July 1, 1941, and who had attained the age of sixty-five years on or before August 1, 1959.

Sec. 2. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 18th day of May, 1973.

H. B. 888

CHAPTER 590

AN ACT TO PROVIDE ADDITIONAL STATE FINANCING TO COMMUNITY COLLEGES, TECHNICAL INSTITUTES AND INDUSTRIAL EDUCATION CENTERS WHICH SERVE FOUR OR MORE COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115A-2 is amended by adding thereto a new definition paragraph to be numbered (4) and to read as follows:

"(4) The term 'regional institution' means an institution which serves four or more counties which have been assigned as of July 1, 1973 to the institution by

the Department of Community Colleges for purposes of conducting adult education classes.”
and by renumbering existing definition paragraphs (4) through (7) as (5) through (8).

Sec. 2. G.S. 115A-18 is amended by adding to subsection (a) a new paragraph to be numbered (3) and to read as follows:

“(3) Additional support for regional institutions: Matching funds to be used with local funds to meet the financial needs of the regional institutions for the items set out in G.S. 115A-19. The amount of matching funds to be provided by the State under this section shall be determined as follows: The population of the county in which the regional institution is located shall be called the ‘local factor’; the combined populations of all the other counties served by the institution shall be called the ‘State factor’. When the budget for the items listed in G.S. 115A-19 has been approved under the procedures set out in G.S. 115A-27, the county in which the regional institution is located shall provide a percentage to be determined by dividing the local factor by the sum of the local factor and the State factor. The State shall provide a percentage of the necessary funds to meet this budget, the percentage to be determined by dividing the State factor by the sum of the local factor and the State factor. If the local county provides less than its proportionate share, the amount of State funds provided shall be reduced by the same proportion as were the county funds.”

Sec. 3. Wherever the word ‘population’ is used in this act, it shall mean the population of the particular area in accordance with the latest U.S. census as may be updated by the State Department of Administration or the U.S. Bureau of Census.

Sec. 4. This act shall be effective for budget years beginning July 1, 1973.

In the General Assembly read three times and ratified, this the 18th day of May, 1973.

H. B. 898

CHAPTER 591

AN ACT TO APPROPRIATE FUNDS FOR THE UNIFORM JUDICIAL RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated to the North Carolina Teachers’ & State Employees’ Retirement System for fiscal year 1973-74 the sum of five hundred sixty-five thousand dollars (\$565,000) for retirement allowances for justices and judges under the Uniform Judicial Retirement System.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of May, 1973.

H. B. 906

CHAPTER 592

AN ACT TO APPROPRIATE FUNDS FOR THE ESTABLISHMENT OF A
DRUG AND ALCOHOL ADDICTION TREATMENT CENTER WITHIN
THE SANATORIUM SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated the sum of three hundred thirty thousand five hundred dollars (\$330,500) out of the General Fund to the Department of Human Resources for the fiscal year 1973-74, in addition to all other appropriated funds, for use by the Department in establishing a drug and alcohol treatment center within the sanatorium system.

Sec. 2. The Department of Human Resources shall establish such a center at the Western North Carolina Sanatorium for the Treatment of Tuberculosis for the purpose of evaluation and treatment or referral to State hospitals or other State facilities having existing programs for care and treatment of such persons. Upon establishment of the program herein provided for, local drug and alcoholic centers may make referrals to such hospital. In establishing this program, the Department is authorized and directed to utilize existing personnel and services to the fullest extent possible.

Sec. 3. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 18th day of May, 1973.

H. B. 921

CHAPTER 593

AN ACT TO APPROPRIATE FUNDS TO IMPLEMENT AN
EMERGENCY MEDICAL SERVICES PROGRAM WITHIN THE
DEPARTMENT OF HUMAN RESOURCES.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated to the Department of Human Resources the sum of seven hundred and fifty thousand dollars (\$750,000) for the fiscal year 1973-74 for the establishment of an emergency medical services program.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of May, 1973.

H. B. 937

CHAPTER 594

AN ACT TO AMEND ARTICLE 8 OF CHAPTER 131 OF THE GENERAL
STATUTES TO PROVIDE FOR THE TREATMENT OF
TUBERCULOSIS AND CANCER AT WESTERN NORTH CAROLINA
HOSPITAL.

The General Assembly of North Carolina enacts:

Section 1. The title to Article 8 of Chapter 131, as the same appears in Volume 3B of the General Statutes, is hereby amended and rewritten to read as follows:

“Western North Carolina Hospital.

Sec. 2. G.S. 131-61, as the same appears in Volume 3B of the General Statutes, is hereby amended and rewritten to read as follows:

“§ 131-61. *Tubercular, cancer, drug and alcohol addiction and other chronic disease hospital established in western North Carolina.*—Western North Carolina Sanatorium for the Treatment of Tuberculosis shall hereafter be known as ‘Western North Carolina Hospital for the Treatment of Tuberculosis, cancer, drug and alcohol addiction and other chronic diseases.’”

Sec. 3. Article 8 of Chapter 131, as the same appears in Volume 3B of the General Statutes, is hereby amended by adding a new section immediately following G.S. 131-61 to be designated G.S. 131-61.1 and to read as follows:

“§ 131-61.1. *Treatment and control of patients.*—Western North Carolina Sanatorium for the treatment of tuberculosis, cancer, drug and alcohol addiction and other chronic diseases is authorized to admit and treat patients afflicted with cancer, drug and alcohol addiction and other chronic diseases in the same manner as it now admits and treats patients afflicted with tuberculosis and shall have the same duties, responsibilities and control over persons thus admitted as it now has over tuberculosis patients.”

Sec. 4. G.S. 131-62, as the same appears in Volume 3B of the General Statutes, is hereby amended by deleting immediately following the words “Control of said” in line 1 the word “sanatorium” and substituting in lieu thereof the word “hospital”.

Sec. 5. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 18th day of May, 1973.

H. B. 969

CHAPTER 595

AN ACT TO INCREASE THE PER DIEM AND MILEAGE ALLOWANCES PAYABLE TO STATE EMPLOYEES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 138-6(a), as the same appears in the 1971 Cumulative Supplement to the 1964 Replacement Volume 3C of the General Statutes, is hereby amended (a) by rewriting subdivision (1) thereof to read as follows:

“(1) For transportation by privately owned automobile, eleven cents (11¢) per mile of travel and the actual cost of tolls paid;” and (b) by rewriting subdivision (3) thereof to read as follows:

“(3) For subsistence, the actual amount expended for room, meals, and reasonable gratuities, not to exceed a total of nineteen dollars (\$19.00) per day when traveling in State or a total of twenty-five dollars (\$25.00) per day when traveling out of State;”.

Sec. 2. G.S. 138-7 is hereby amended by striking out the fourth and fifth lines thereof and the words “vention registration,” in the sixth line thereof and inserting in lieu thereof the following:

“the travel and subsistence allowances and convention registration fees as”.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of May, 1973.

H. B. 1045

CHAPTER 596

AN ACT TO APPROPRIATE FUNDS FOR THE ESTABLISHMENT OF A STATEWIDE ARCHAEOLOGICAL PROGRAM.

Whereas, beneath the surface of the soil of North Carolina lies evidence of thousands of years of the history of the land upon which peoples of many origins have developed a great State; and

Whereas, the State's archaeological heritage is fast disappearing as a result of public and private construction projects and land development; and

Whereas, the dedicated and pioneering efforts of a few archaeologists have never been given proper recognition or adequate support, and, consequently, in comparison with many sister states, North Carolina's total effort to preserve and salvage these precious resources has been fragmented and uncoordinated, there being no comprehensive, coordinated statewide program of scientific exploration and evaluation of archaeological resources, and there being no adequate antiquities legislation; and

Whereas, the avalanche of environmental statements and project reviews—now numbering approximately 100 per month—required for governmental and private construction projects has created an administrative crisis resulting from the absence of a statewide survey to identify archaeological resources in North Carolina; and

Whereas, it is urgent that a coordinated archaeological program, based upon professional principles and techniques and concerned with the history of all peoples, be pursued by the State with the cooperation and assistance of acknowledged specialists now available in the agencies, colleges, and universities of the State; and

Whereas, such a program should be conducted with proper respect for the human and sacred remains of all elements of our population; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Office of Archives and History, Department of Art, Culture and History, for the 1973-74 fiscal year the sum of sixty-four thousand three hundred twenty-seven dollars (\$64,327) for the establishment and administration of a statewide archaeological program, which program shall include contractual agreements for the utilization of the services of appropriate professional archaeologists on the staffs and faculties of North Carolina colleges and universities.

Sec. 2. For the purposes of reviewing existing statutes relating to archaeological resources, of making recommendations to the General Assembly concerning programs and statutes, and of advising the Department on the development of its archaeological program, there is hereby created an Archaeological Advisory Committee to be composed of the State Historian as chairman and the following members: one member of the Senate appointed by the President of the Senate; one member of the House of Representatives appointed by the Speaker of the House; two members representing the American Indians of North Carolina, one appointed by the Tribal Council of the Eastern Band of the Cherokee, and one appointed by the Executive Director of the North Carolina State Commission of Indian Affairs; and one archaeologist appointed by the North Carolina Archaeological Advisory Council. Members of the committee shall serve without salary, but their actual expenses resulting from the performance of their official duties shall be reimbursed in accordance

with State policy. Members shall be appointed for two-year terms beginning July 1 of the odd-numbered years and shall serve until their successors are appointed and qualified. Initial appointments shall be made immediately upon ratification for terms to expire June 30, 1975.

Sec. 3. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 18th day of May, 1973.

H. B. 1096

CHAPTER 597

AN ACT TO APPROPRIATE FUNDS TO RENOVATE THE GOVERNOR'S MANSION AND TO MAKE IT SUITABLE AS BOTH A PUBLIC RESIDENCE AND A PRIVATE RESIDENCE FOR THE GOVERNOR.

The General Assembly of North Carolina enacts:

Section 1. The funds appropriated for renovation of the Governor's Mansion shall be used to renovate the entire Governor's Mansion to render it a safe and comfortable structure in which the Governor may hold public and ceremonial functions and in which at the same time the Governor's family may have private areas which will allow ordinary family living without interference from the public.

Sec. 2. The renovations and alterations herein authorized shall include, but shall not be limited to, the following items:

- (a) Removal of the existing heating system and installation of a year-round air conditioning system.
- (b) Rewiring of the structure as needed to provide safe, adequate and convenient electrical circuits throughout the structure.
- (c) Conversion of the third floor area into private family living quarters for the Governor and his family.
- (d) Installation of a family kitchen on the second floor level.
- (e) Installation of a fire escape from the third floor at the rear of the Mansion.
- (f) Conversion, renovation and improvement of basement area.
- (g) Renovation and modernization of all bathrooms.
- (h) Weatherstripping, repair and reconstruction as necessary of all windows and frames in the building.
- (i) Restoration of exterior brick walls.
- (j) General renovation, restoration, and refurbishing of the interior and exterior of the entire building.

Sec. 3. The Department of Administration shall lease or otherwise provide suitable living quarters for the Governor and his family during the period when it is necessary to vacate the Governor's Mansion while repairs are being made. The cost of providing these quarters shall be paid from the Contingency and Emergency Fund.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of May, 1973.

H. B. 1145

CHAPTER 598

AN ACT TO PROVIDE THAT THE UNIVERSITY OF NORTH CAROLINA AT WILMINGTON SHALL RECEIVE COPIES OF PUBLICATIONS OF STATE OFFICIALS AND DEPARTMENT HEADS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 147-50 is amended by adding immediately after the words "Western Carolina University.....2 copies;" the following: "University of North Carolina at Wilmington.....2 copies; "North Carolina Agricultural and Technical State University.....2 copies;"

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of May, 1973.

H. B. 1148

CHAPTER 599

AN ACT TO APPROPRIATE FUNDS TO ALEXANDER SCHOOLS, INC., UNION MILLS, NORTH CAROLINA, TO CONSTRUCT A STUDENT CENTER.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated out of the general fund of the State to Alexander Schools, Inc., Union Mills, North Carolina, the sum of fifty thousand dollars (\$50,000) for the purpose of constructing a Student Center Building.

Sec. 2. This act shall become effective on July 1, 1973.

In the General Assembly read three times and ratified, this the 18th day of May, 1973.

H. B. 1259

CHAPTER 600

AN ACT TO INCREASE THE SALARY OF THE GOVERNOR OF THE STATE OF NORTH CAROLINA TO FORTY-FIVE THOUSAND DOLLARS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 147-11, as the same appears in the 1971 Cumulative Supplement to Volume 3C of the North Carolina General Statutes, is hereby amended by striking from the first sentence thereof the words and figures, "thirty-five thousand dollars (\$35,000)", and by substituting in lieu thereof the words and figures, "forty-five thousand dollars (\$45,000)".

Sec. 2. This act shall become effective upon the inauguration of the next Governor in 1977.

In the General Assembly read three times and ratified, this the 18th day of May, 1973.

H. B. 1283

CHAPTER 601

AN ACT TO AUTHORIZE ELECTIONS IN THE TOWN OF LITTLETON TO DETERMINE WHETHER THE TOWN SHALL BE TOTALLY LOCATED IN WARREN OR HALIFAX COUNTY.

The General Assembly of North Carolina enacts:

Section 1. On the first Tuesday in August, 1973, the Halifax County Board of Elections shall hold and conduct an election in all of the Town of Littleton on the question of whether the Town shall be located totally within Warren or Halifax County. The Board of Elections shall cause a notice of the election to be published once a week for two successive weeks in a newspaper qualified for legal advertising having a general circulation in the Town no less than 30 days prior to the date on which the registration books are required to be closed. Any citizen of the Town of Littleton who is already registered or who registers prior to the election shall be permitted to vote in the election. No new registration shall be required. Except as otherwise provided in this act, the registration of voters and the election shall be conducted in accordance with the applicable provisions of the general laws pertaining to municipal elections.

The ballot shall be substantially in the following form:

FOR changing the County line so that the Town of Littleton shall be totally within either Warren or Halifax County.

AGAINST changing the County line so that the Town of Littleton shall be totally within either Warren or Halifax County.

Section 2. If the majority of votes cast are "AGAINST changing the County line so that Littleton shall be totally within either Warren or Halifax County", then this act shall be null and void. If the majority of votes cast are "FOR changing the County line so that Littleton shall be totally within either Warren or Halifax County", then a special election shall be held at the same time as the regular municipal election to be held in Littleton in November, 1973, on the question of whether the Town shall be located totally in Warren County or Halifax County. The Halifax County Board of Elections shall hold and conduct the special election in the same manner and in accordance with the provisions of Section 1 of this act.

The ballot shall be substantially as follows:

Issue No. 1. FOR changing the county line so that the Town of Littleton shall be totally within Warren County.

Issue No. 2. FOR changing the county line so that the Town of Littleton shall be totally within Halifax County.

Instructions on the ballot shall inform the voter that he may vote for only one issue.

Sec. 3. If a majority of the votes cast are in favor of Issue No. 1, then that portion of the county line between Warren and Halifax Counties shall be changed so that that area within the present corporate limits of the Town of Littleton previously within Halifax County shall become and hereafter be a part of Warren county, subject to the provisions of Section 4 of this act.

If a majority of the votes cast are in favor of Issue No. 2, then that portion of the county line between Warren and Halifax Counties shall be changed so

that that area within the present corporate limits of the Town of Littleton previously within Warren County shall become and hereafter be a part of Halifax County, subject to the provisions of Section 4 of this act.

Sec. 4. Upon determination of the result of the November election held under Section 2 of this act, then the following provisions shall apply:

(a) The County line shall be changed as described in Section 3 of this act effective July 1, 1974, and thereafter the present corporate limits of the Town of Littleton shall be totally in the County receiving the favorable vote in the November election.

(b) On and after July 1, 1974, all papers, documents and instruments required or permitted to be filed or registered, involving citizens and property in the Town of Littleton, shall be recorded in the County wherein the Town is totally located.

(c) All public records relating to citizens and property in the Town of Littleton which were filed or recorded prior to July 1, 1974, shall remain in the County where filed or recorded, and such records shall be valid public records as to the property and persons involved even though they are recorded in the County where the property is no longer located.

(d) On and after January 1, 1974, property in the Town of Littleton shall be listed for taxes in the County in which the Town shall be totally located beginning July 1, 1974. Any unpaid taxes or tax liens due or held by the County from which a portion of the Town of Littleton has been removed shall continue to be valid and enforceable by that County.

(e) No cause of action, including criminal actions, involving persons or property in that portion of the Town of Littleton which has been changed as herein provided, and which is pending on July 1, 1974, shall be abated, and such action shall continue in the County where instituted.

Sec. 5. In the event Issue No. 1 receives a favorable vote, then that portion of the Town of Littleton which was formerly in Halifax County and which was a part of the Northwest Hospital District of Halifax County, is hereby removed from the Hospital District on July 1, 1974.

In the event Issue No. 2 receives a favorable vote, then that portion of the Town of Littleton which was formerly in Warren County shall become a part of the Northwest Hospital District of Halifax County on July 1, 1974.

Sec. 6. The County Board of Elections in the County from which a portion of Littleton is removed shall immediately after July 1, 1974, transfer the voter registration records, pertaining to that portion of the Town of Littleton which was removed, to the County Board of Elections in the other County and thereafter the registered voters so transferred shall be validly registered in the County to which they were removed.

Sec. 7. The conduct of municipal elections within the Town of Littleton subsequent to July 1, 1974, shall be in accordance with the option previously exercised to have the Halifax County Board of Elections conduct its elections. Provided, that if the Town of Littleton becomes a part of Warren County, then the Town of Littleton shall, within 60 days, exercise the options provided for in Chapter 163, Article 23 of the North Carolina General Statutes, in respect to conduct of its municipal elections.

Sec. 8. The Jury Commission of each county shall revise its jury list to add to or eliminate therefrom those persons subject to jury duty who reside in the Town of Littleton; said revised jury list to be effective July 1, 1974.

Sec. 9. The County Alcoholic Beverage Control Board of the county from which the Town of Littleton is removed shall, after July 1, 1974, not be permitted to engage in business within the Town of Littleton.

Sec. 10. In the event the Town of Littleton becomes located in one county, then the Town shall not, without the permission of the General Assembly, annex any territory in any county other than that in which it is located.

Sec. 11. Public officials who reside in the Town of Littleton, and who hold a county office in the county from which the Town of Littleton is removed, shall continue to hold office until the expiration of their present term of office.

Sec. 12. The present corporate limits of the Town of Littleton are as follows:

BEGINNING at a point which is due North 900 yards from a point in the present Warren and Halifax County line on the south side of the Seaboard Coast Line Railroad, marked by a stone; thence along a regular curve with a 900 yard radius in a southeasterly direction 4272.5 feet to a point which is due East 900 yards from said stone in the present Warren and Halifax County line, on the south side of said Railroad; thence along a regular curve in a southwesterly direction 5097.7 feet, more or less, to a point which is due South 1320 yards from said stone in the present Warren and Halifax County line on the south side of said railroad; thence along a regular curve in a northwesterly direction 5097.7 feet, more or less, to a point which is due West 900 yards from said stone in the present Warren and Halifax County line on the south side of said Railroad; thence along a regular curve with a 900 yard radius in a northeasterly direction 4272.5 feet to the point of beginning.

Sec. 13. The Board of Elections shall certify the results of the November 1973 election to the Clerk of Court of Halifax and Warren Counties and to the Secretary of State and the results shall be filed in the permanent records of each office.

Sec. 14. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of May, 1973.

H. B. 1299

CHAPTER 602

AN ACT AUTHORIZING THE GOVERNING BODY OF THE CITY OF DURHAM TO SPECIALLY ASSESS BENEFITED PROPERTY OUTSIDE THE CORPORATE LIMITS FOR EXTENSION OF WATER AND SEWER SYSTEMS.

The General Assembly of North Carolina enacts:

Section 1. In exercising the authority granted under Article 16 of Chapter 160A of the North Carolina General Statutes to extend and operate public enterprises outside its corporate limits, the Governing Body of the City of Durham may specially assess all, or part, of the costs of constructing, reconstructing, extending, building or improving water supply and distribution systems or sewage collection and disposal systems or both such systems, or any part thereof, outside the corporate limits of the City of Durham against property benefited therefrom; provided, however, no special assessment shall be levied until a petition which meets the requirements set forth in Section 7 of Chapter 224, 1927 Private Laws, as amended, has been submitted to the City of

Durham by the owners of the property affected. Special assessments levied pursuant to this act shall be levied and collected in the same way and under the same authority and procedures as special assessments levied and collected by the City of Durham upon property within the corporate limits.

Sec. 2. This act shall apply only to the City of Durham.

Sec. 3. This act shall be in full force and effect upon ratification.

In the General Assembly read three times and ratified, this the 18th day of May, 1973.

H. B. 127

CHAPTER 603

AN ACT TO ESTABLISH STATEWIDE PUBLIC KINDERGARTEN PROGRAMS IN ALL COUNTY AND CITY SCHOOL ADMINISTRATIVE UNITS.

Whereas, the kindergarten is recognized in American education as an essential prerequisite to success in the first grade and the early years of formal education; and

Whereas, there is a direct relationship between failure in the initial years of formal education and the high percentage of dropouts in our public school systems; and

Whereas, the Pilot Program for kindergartens as wisely established by the General Assembly in the 1969 Session and expanded by the 1971 General Assembly has proven beneficial and has provided a foundation to build upon; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. A new Article, to be designated as Article 45 and entitled "Kindergartens" shall be inserted in Chapter 115 of the General Statutes immediately after Article 44 and shall read as follows:

"Article 45.

"Kindergartens.

"§ 115-358. *Establishment and maintenance of kindergartens.*—County and city boards of education shall provide for their respective administrative unit kindergartens as a part of the public school system for all children living in the school administrative unit who are eligible for admission pursuant to G.S. 115-359; provided that funds are available from State, local, federal or other sources to operate a kindergarten program as provided in this Article.

All kindergarten programs so established shall be subject to the supervision of the State Department of Public Instruction and shall be operated in accordance with the standards adopted by the State Board of Education, upon recommendation of the State Superintendent of Public Instruction.

Among the standards to be adopted by the State Board of Education shall be a provision that the Board will allocate funds for the purpose of operating and administering kindergartens to each school administrative unit in the State based on the average daily membership for the best continuous three out of the first four school months of pupils in the first grade during the last school year in that respective school administrative unit.

Provided, that for the 1973-74 school year, sufficient funds shall be allocated by the Board to each county and city school administrative unit to operate a minimum of two kindergarten classes in each administrative unit. Provided further, that for each subsequent school year beginning with the 1974-75 school

year, the Board shall allocate sufficient funds to each county and city school administrative unit to add at least one additional kindergarten class until all eligible children are enrolled.

“§ 115-359. *Eligibility.*—Beginning with the school year 1978-1979, in accordance with the provisions of G.S. 115-358, any child who has passed the fifth anniversary of his birth before October fifteenth of the year in which he enrolls shall be eligible for enrollment in kindergarten. Provided, however, that for the school years 1973-1974 through 1978-1979, the State Board of Education shall have enrolled in kindergartens that percentage on a statewide basis of the eligible children at the beginning of each school year in accord with the following table:

<u>Enrollment Date</u>	<u>Enrollment Percentage</u>
September, 1973	Not less than 16%
September, 1974	Not less than 25%
September, 1975	Not less than 45%
September, 1976	Not less than 65%
September, 1977	Not less than 85%
September, 1978	Not less than 100%

Among the standards to be adopted by the State Board of Education in administering the enrollment of the eligible children on the schedule set forth herein, the State Board of Education shall consider the availability and location of facilities in each administrative unit, the number of eligible children in each administrative unit, the transportation system in each administrative unit, appropriate birth date groupings and other pertinent educational criteria.

Provided further, that a county and city board of education may, with the approval of the State Board, submit annually a plan for admission of five-year olds to the kindergarten program without following the time schedule set out hereinabove.

“§ 115-360. *Kindergartens; need not be operated under certain conditions.*—Notwithstanding any other provision of law to the contrary, subject to the approval of the State Board of Education, any county or city board of education may elect not to establish and maintain a kindergarten program. Any funds allocated to a county or city board of education which does not operate a kindergarten program may be reallocated by the State Board of Education, within the discretion of the Board, to a county or city board of education which will operate such a program.”

Sec. 2. The funds appropriated are to be expended for the purpose of providing a statewide kindergarten program in each county and city school administrative unit as provided for in this act.

Sec. 3. G.S. 115-38 and 115-198.1 and the last paragraph of G.S. 115-162 are repealed.

Sec. 4. This act shall become effective as of July 1, 1973.

In the General Assembly read three times and ratified, this the 18th day of May, 1973.

H. B. 559

CHAPTER 604

AN ACT TO AMEND G.S. 105-361 RELATING TO THE REPORTING OF TAXES DUE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-361 is hereby amended to read as follows:

“§ 105-361. *Statement of amount of taxes due.*—(a) Duty to Furnish a Certificate. On the request of any of the persons prescribed in subdivision (a)(1), below, and upon the condition prescribed by subdivision (a)(2), below, the tax collector shall furnish a written certificate stating the amount of any taxes and special assessments for the current year and for prior years in his hands for collection (together with any penalties, interest, and costs accrued thereon) that are made a lien on a parcel of real property in the taxing unit.

- (1) Who May Make Request. Any of the following persons shall be entitled to request the certificate: a. An owner of the real property;
b. An occupant of the real property;
c. A person having a lien on the real property;
d. A person having a legal interest or estate in the real property;
e. A person or firm having a contract to purchase or lease the property or a person or firm having contracted to make a loan secured by the property;
f. The authorized agent or attorney of any person described in subdivisions (A)(1)(a) through (e) above.

- (2) Duty of Person Making Request. With respect to taxes, the tax collector shall not be required to furnish a certificate unless the person making the request specifies in whose name the real property was listed for taxation for each year for which the information is sought. With respect to assessments, the tax collector shall not be required to furnish a certificate unless the person making the request furnishes such identification of the real estate as may be reasonably required by the tax collector.

(b) Reliance on the Certificate. When a certificate has been issued as provided in subsection (a), above, all taxes and special assessments that have accrued against the property for the period covered by the certificate shall cease to be a lien against the property, except to the extent of taxes and special assessments stated to be due in the certificate, as to all persons, firms, and corporations obtaining such a certificate and their successors in interest who rely on the certificate:

- (1) by paying the amount of taxes and assessments stated therein to be a lien on the real property;
(2) by purchasing or leasing the real property; or
(3) by lending money secured by the real property.

The tax collector shall be liable on his bond for any loss to the taxing unit arising from an understatement of the tax and special assessment obligations in the preparation of a certificate furnished under this section.

(c) Penalty. Any tax collector who fails or refuses to furnish a certificate when requested under the conditions prescribed in this section shall be liable for a penalty of fifty dollars (\$50.00) recoverable in a civil action by the person who made the request.

(d) Oral Statements. An oral statement made by the tax collector as to the amount of taxes, special assessments, penalties, interest, and costs due on any real or personal property shall bind neither the tax collector nor the taxing unit."

Sec. 2. This act shall become effective October 1, 1973.

In the General Assembly read three times and ratified, this the 18th day of May, 1973.

H. B. 659

CHAPTER 605

AN ACT TO MAKE THE REQUIREMENT OF AN ANNUAL HEALTH PHYSICAL FOR BARBERS OPTIONAL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 86-19 is hereby amended by deleting the word "prescribe" in line 4 thereof and inserting in lieu thereof the word "require"; by deleting the word "prescribed" in lines 8 and 9 thereof and inserting in lieu thereof the words "if required" and by inserting before the period at the end of the second paragraph the words "if required by the Board".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of May, 1973.

H. B. 712

CHAPTER 606

AN ACT TO AMEND G.S. 18A-15(12) CONCERNING NOTIFICATION BY THE STATE BOARD OF ALCOHOLIC CONTROL TO LOCAL TAX OFFICIALS AND A.B.C. ENFORCEMENT OFFICERS WHEN A NEW PERMIT IS ISSUED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 18A-15(12) as the same appears in the 1971 Cumulative Supplement of the General Statutes is hereby amended by adding a sentence at the end thereof, to read as follows:

"Upon the granting of a permit in accordance with this Chapter, the State Board of Alcoholic Control shall notify the county sheriff and county tax collector, and if applicable, the city chief of police and city tax collector, as well as the County Alcoholic Beverage Control officer, whenever an alcoholic beverage control permit of any type is issued within the respective county and/or city."

Sec. 2. This act shall become effective January 1, 1974.

In the General Assembly read three times and ratified, this the 18th day of May, 1973.

H. B. 716

CHAPTER 607

AN ACT TO PROVIDE FOR THE ORGANIZATIONAL MEETING OF
NEWLY ELECTED CITY COUNCILS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-68 is amended in lines 2 and 3 by striking out the words "after the regular city election" and inserting in their place the words "in December after the results of the election have been certified pursuant to Subchapter IX of Chapter 163 of the General Statutes."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of May, 1973.

H. B. 728

CHAPTER 608

AN ACT TO AUTHORIZE MUNICIPALITIES TO UNDERTAKE
PROGRAMS FOR THE PREVENTION AND TREATMENT OF DRUG
ABUSE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 160A of the General Statutes is amended by inserting in Article 21 a new section as follows:

"§ 160A-493. *Drug abuse programs.*—Any city may provide for the prevention and treatment of narcotic, barbituric and other types of drug abuse and addiction through education, medication, medical care, hospitalization, and outpatient housing, and may appropriate the necessary funds therefor."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of May, 1973.

H. B. 729

CHAPTER 609

AN ACT TO CLARIFY THE PROVISIONS OF CHAPTER 160A OF THE
GENERAL STATUTES WITH RESPECT TO QUALIFICATIONS FOR
ELECTIVE OFFICE.

The General Assembly of North Carolina enacts:

Section 1. Article 5, Part 1, of Chapter 160A of the General Statutes is amended by inserting a new section therein as follows:

"§ 160A-59. *Qualifications for elective office.*—All city officers elected by the people shall possess the qualifications set out in Article VI of the Constitution. In addition, when the city is divided into electoral districts for the purpose of electing members of the council, council members shall reside in the district they represent. When any elected city officer ceases to meet all of the qualifications for holding office pursuant to the Constitution, or when a council member ceases to reside in an electoral district that he was elected to represent, the office is ipso facto vacant."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of May, 1973.

H. B. 743

CHAPTER 610

AN ACT TO AMEND G.S. 58-260 WITH REGARD TO PAYMENT OF DISABILITY PAYMENTS UNDER CERTAIN POLICIES OF INSURANCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-260 is hereby amended by inserting in the second paragraph between the first and second sentences thereof, a new sentence to read as follows:

"Whenever any policy of insurance governed by this Chapter provides for certification of disability which is within the scope of practice of a duly licensed physician, or a duly licensed optometrist, or a duly licensed podiatrist, or a duly licensed dentist, or a duly licensed chiropractor, the insured or other persons entitled to benefits under such policy shall be entitled to payment of or reimbursement for such disability whether such disability be certified by a duly licensed physician, or a duly licensed optometrist, or a duly licensed podiatrist, or a duly licensed dentist, or a duly licensed chiropractor, notwithstanding any provision contained in such policy."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of May, 1973.

H. B. 780

CHAPTER 611

AN ACT TO AMEND ARTICLE 2 OF CHAPTER 106 OF THE GENERAL STATUTES, THE NORTH CAROLINA FERTILIZER LAW OF 1947.

The General Assembly of North Carolina enacts:

Section 1. G.S. 106-50.4(a)(4)a. is amended by rewriting the paragraph at the end thereof beginning with the word "Whether" and ending with the word "only" to read: "(Optional) If acid forming or non-acid forming potential is guaranteed, the potential basicity or acidity expressed as equivalent of calcium carbonate in multiples of five percent (5%) (or one hundred pounds per ton) only."

Sec. 2. G.S. 106-50.4(a)(4)(b) is amended by striking line 11 thereof which reads:

"Total magnesium oxide _____ percent" and by striking line 21 thereof, which reads:

"Total magnesium oxide _____ percent."

Sec. 3. G.S. 106-50.4(a)(4)(b) is further amended by striking lines 22-29 thereof and inserting in lieu thereof the following words: "(Optional) If acid forming or non-acid forming potential is guaranteed, the potential basicity or acidity expressed as equivalent of calcium carbonate in multiples of five percent (5%) (or hundred pounds per ton) only."

Sec. 4. G.S. 106-50.4(a)(6) is amended by placing a period after the word "guaranteed" in line 6 thereof, and by striking the words "excepting that the sulfur guarantee for fertilizers branded for tobacco shall be both the maximum and the minimum percentages," in lines 6-8 thereof.

Sec. 5. G.S. 106-50.6(b) is amended by rewriting the fourth sentence thereof which now reads: "Each and every distributor shall report the tonnage sold monthly under oath and on forms furnished by the Commissioner" so that

the sentence will read: "Each and every distributor shall report the tonnage sold monthly on forms furnished by the Commissioner".

Sec. 6. G.S. 106-50.10 is amended by placing a period after the word "State" appearing in line 5 and striking the remaining portion thereof.

Sec. 7. This act is effective on July 1, 1973.

In the General Assembly read three times and ratified, this the 18th day of May, 1973.

H. B. 785

CHAPTER 612

AN ACT TO PROVIDE FOR DISCRETIONARY PRE-SENTENCE
INVESTIGATION OF FIRST AND SUBSEQUENT CONVICTIONS OF
D.U.I.

The General Assembly of North Carolina enacts:

Section 1. Part 12 of Article 3 of Chapter 20 of the General Statutes is hereby amended by adding a new section to be designated "G.S. 20-179.1" and to read as follows:

"§ 20-179.1. *Pre-sentence investigation of persons convicted of driving while under the influence of intoxicating liquor.*—(a) In the case of a first or subsequent conviction of driving a motor vehicle upon a highway while under the influence of intoxicating liquor, the trial judge may request a pre-sentence investigation to determine whether a person convicted of such offense would benefit from treatment for persons who are habitual users of alcohol. Provided however, if the person convicted objects, the sentence of the court shall be entered.

(b) In any case, the trial court may order suitable treatment for the person, as a condition for suspension of a sentence, in addition to imposing any penalties required by this Article."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of May, 1973.

H. B. 806

CHAPTER 613

AN ACT TO PROVIDE FOR THE DISTRIBUTION OF FUNDS TO AREA
MENTAL HEALTH PROGRAMS.

The General Assembly of North Carolina enacts:

Section 1. Article 2C of Chapter 122, as the same appears in the 1971 Cumulative Supplement of Volume 3B of the General Statutes, is hereby amended by adding a new section at the end thereof to be designated G.S. 122-35.23 to read as follows:

"§ 122-35.23. *Allocation of funds to area programs.*—Appropriations shall be made annually by the State Department of Mental Health to area mental health programs for the provision of community-based services. Allocations shall be made in the form of a base grant computed on the basis of five hundred dollars (\$500.00) per one thousand population within the catchment area. Additional allocation may be made to the area mental health program on a formula basis as determined by the area's relative ability to fund mental health services. In no case shall the allocation formula provide for less than one for one State matching funds nor more than nine for one. Funding shall be continued upon the

area program maintaining at least the same level of local financial participation as in the fiscal year 1973. For the purpose of this section, local financial participation shall not include State or federal funds.

Where local mental health programs have not been established as area programs, appropriations shall be allocated on the basis of two-thirds of the first thirty thousand dollars (\$30,000) of the approved budget and one-half of the remainder of the budget.

Appropriations shall be allocated to area mental health programs in accordance with the annual plan, approved by both the area board and the Department of Mental Health. Where the actual expenditures for the fiscal period are less than the approved budget, the State's share of the operating costs shall be determined on the basis of actual expenditure with any overpayment of State funds being refunded to the Department of Mental Health within 90 days after the close of the fiscal period.

Appropriations to area programs shall be used exclusively for the operating costs of the program with all real estate, buildings, and equipment necessary to the operation of such program being provided by local or federal funds, or both, and title to such property shall remain with the area program."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of May, 1973.

H. B. 861

CHAPTER 614

AN ACT TO ASSESS ATTORNEY FEES, RESTORE MONEYS, AND TO PROVIDE PENALTIES IN DECEPTIVE PRACTICE ACTIONS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 75 of the General Statutes is hereby amended by adding a new G.S. 75-16.1 to read as follows:

"§ 75-16.1. *Attorney fee.*—In any suit instituted by a person who alleges that the defendant violated G.S. 75-1.1, the presiding judge may, in his discretion, allow a reasonable attorney fee to the duly licensed attorney representing the prevailing party, such attorney fee to be taxed as a part of the court costs and payable by the losing party, upon a finding by the presiding judge that:

- (1) the party charged with the violation has willfully engaged in the act or practice, and there was an unwarranted refusal by such party to pay the claim which constitutes the basis of such suit; or
- (2) the party instituting the action knew, or should have known, the action was frivolous and malicious."

Sec. 2. Chapter 75 of the General Statutes is hereby amended by adding a new G.S. 75-16.2 to read as follows:

"§ 75-16.2. *Restoration and cancellation.*—In any suit instituted by the Attorney General to enjoin a practice alleged to violate G.S. 75-1.1, the presiding judge may, upon a final determination of the cause, order the restoration of any moneys or property and the cancellation of any contract obtained by any defendant as a result of such violation."

Sec. 3. *Appointment of receiver.*—G.S. 1-502 is hereby amended by adding a new subsection to read as follows:

- "(5) In cases wherein restitution is sought for violations of G.S. 75-1.1."

Sec. 4. This act shall not apply to pending litigation.

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of May, 1973.

H. B. 869

CHAPTER 615**AN ACT TO CLARIFY THE STATUS OF PROPERTY TAXES PENDING
DECISION ON APPEAL TO STATE BOARD OF ASSESSMENT.**

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-321(d) is hereby amended by rewriting the same in its entirety to read as follows:

"(d) No tax receipt shall be delivered to the tax collector for any assessment appealed to the State Board of Assessment until such appeal has been finally adjudicated."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of May, 1973.

H. B. 917

CHAPTER 616**AN ACT TO AFFORD INDIGENT PERSONS LEGAL
REPRESENTATION IN ACTIONS DESIGNED TO JUDICIALLY
COMMIT THEM TO MENTAL HOSPITALS.**

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-451(a)(6) as the same appears in the 1969 Replacement Volume 1B of the General Statutes is hereby amended and rewritten to read:

"(6) A proceeding for judicial hospitalization under Chapter 122, Article 7 (Judicial Hospitalization) or Article 11 (Mentally Ill Criminals), of the General Statutes;"

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of May, 1973.

H. B. 993

CHAPTER 617**AN ACT TO APPROPRIATE FUNDS FROM THE HIGHWAY FUND FOR
THE BENEFIT OF THE NATIONAL DRIVING CENTER
FOUNDATION, INC.**

Whereas, in spite of the excellent advances made in safety engineering of the automobile and the highways, traffic accidents continue to be a major problem indicating that the driver is the primary contributing factor in the origin of traffic accidents; and

Whereas, there is no general agreement among physicians in judging driving competency of those individuals who have suffered with such medical problems as strokes, heart attacks, diabetes, etc., and therefore no standards with which to advise either the person so afflicted nor the North Carolina Department of Motor Vehicles regarding how and when they should enter the driver's seat nor what restrictions, etc.; and

Whereas, there is an evergrowing problem of drugs which are prescribed by physicians which interfere with normal driving performance which is further

complicated when two or more physicians treating a patient prescribe different drugs to be taken simultaneously; and

Whereas, in the medical catastrophes which affect patients, there are major emotional problems such as psychotic and severe neurosis, which the majority of physicians and psychiatrists agree as being incompatible with safe driving but for which there are no uniform standards upon which the physicians and psychiatrists can make judgments in determining which of these people while on specific drugs are truly capable of driving cars safely; and

Whereas, social factors are known to be involved in driver attitudes and that the serious driving offenders are very frequently found to also be offenders in nondriving conditions, however there are no uniform standards for physicians to make these judgments pertaining to a driver's competency; and

Whereas, uniform standards in all of those areas herein set out are essential if the rules are to be fairly and firmly applied by legal means through the driver licensing procedures at both the State and national level; and

Whereas, the concept of the National Driving Center has been generated by a North Carolina committee comprised of representatives from State Agencies, Medical and Legal professions and Insurance Agencies for the purpose of conducting a systematic and controlled study of driving performance as it is affected by medical behavioral and social factors; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated to the Department of Administration from the Highway Fund the sum of one million five hundred thousand dollars (\$1,500,000) for the purpose of acquiring land in the Research Triangle Park and constructing and equipping facilities to house the National Driving Center Foundation, Inc., a nonprofit corporation created under the laws of North Carolina.

Sec. 2. There is hereby appropriated from the Highway Fund to the National Driving Center Foundation, Inc., for operating expenses, the sum of two hundred ninety-five thousand dollars (\$295,000) for the fiscal year commencing July 1, 1973, and ending June 30, 1974.

Sec. 3. It shall be the duty of the State Auditor to make an annual audit of the accounts of the National Driving Center Foundation, Incorporated, and make a report thereof to the General Assembly.

Sec. 4. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 18th day of May, 1973.

H. B. 1014

CHAPTER 618

AN ACT TO PROVIDE AN ECONOMIC DEVELOPMENT PROGRAM TO AID FISHERMEN OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. Chapter 113 of the General Statutes is hereby amended by adding a new Article to read as follows:

“Article 23B

“Fishermen Economic Development Program

“§ 113-315.10. *Short title.*—This act shall be known as the Fishermen’s Economic Development Act.

“§ 113-315.11. *Legislative findings.* The Legislature finds that the fishermen of North Carolina perform essential functions in providing wholesome food for the diets of the citizens of North Carolina, that they properly earn a livelihood by performing these essential functions, that they are entitled to the same or similar governmental services provided other segments of our society so as to become more proficient in the performance of these essential functions, and that the quality of life for North Carolinians is enhanced by the economic development of the fishing industry.

“§ 113-315.12. *Definitions.*—As used in this act:

(1) Economic Development means: Giving helpful and useful aid to improve the proficiency of the citizens, and the efficiency of the operations are improved to the end that the economic well-being of fishermen is improved, the quality of life is enhanced and equality of opportunity is provided.

(2) Fisherman means: Any person, firm, corporation, cooperative, partnership, or any legally constituted group, engaged in the harvesting, handling, processing, packaging, and marketing of fishery or seafood products from coastal fishing waters as defined by G.S. 113-129.

“§ 113-315.13. *Fishermen Economic Development Program.*—The Secretary of Natural and Economic Resources is hereby authorized to provide through its Division of Commercial and Sports Fisheries and the Extension Services of the University of North Carolina those services intended to promote the economic development of the fishermen, including but not limited to:

(1) Instituting business management services to promote better business management practices throughout the fishing and seafood industry, and to promote the better use of credit and other business management techniques.

(2) Providing counseling services to the fishermen at all levels and assisting them in meeting the Federal and State Environmental, safety and health requirements.

(3) Improving waterways, harbors, inlets, and generally the water transportation system of North Carolina so as to more efficiently and safely accommodate commercial and sport fishing craft, and to provide access to and from fishing grounds.

“§ 113-315.14. *Personnel needs.* To effectively carry out the duties and responsibilities set forth above, the Secretary may employ or contract with the Extension Services of the University of North Carolina to employ the following persons:

- (1) A person to have responsibility for the successful execution of the program and to coordinate as deemed desirable with other agencies of the State and Federal Government
- (2) A business management specialist
- (3) An insurance and finance specialist
- (4) A specialist who could understand, interpret, and counsel on regulations and requirements, and
- (5) A specialist in waterways and water transportation, and
- (6) Such clerical personnel as necessary to carry out the provisions of this act.”

Sec. 2. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 18th day of May, 1973.

H. B. 1114

CHAPTER 619

AN ACT TO BE KNOWN AS THE NORTH CAROLINA ENVIRONMENTAL EDUCATION ACT OF 1973.

The General Assembly of North Carolina enacts:

Section 1. Short Title. This act shall be known and cited as the "Environmental Education and Information Act of 1973".

Sec. 2. Declaration of Purpose. The purpose of this act shall be to encourage, promote, and support the development of programs, facilities, and materials for the purpose of environmental education in North Carolina.

Sec. 3. Creation. There is hereby created a North Carolina Environmental Education and Information Program (hereinafter referred to as "Program") within the Department of Administration.

Sec. 4. Powers and Duties of Secretary. The powers and duties of the Secretary, or his designee, shall be as follows:

(1) Coordinate, through technical assistance and staff support, the various agencies, institutions, and citizens involved in the planning and implementation of a statewide program of environmental education;

(2) Be responsible for the allocation of funds for, but not necessarily limited to, such matters as the purchase of educational equipment, materials and supplies; the construction or modification of facilities; and the employment of consultants and other personnel necessary to carry out the provisions of this act;

(3) Act as a liaison between the Executive branch of government and established groups with statewide environmental concern so as to encourage understanding of and engender support of governmental planning and policy in the area of environmental quality;

(4) Encourage coordination between the various State and federal agencies, citizens groups, and the business and industrial community, in the dissemination of environmental information and education.

(5) Utilize existing programs, educational materials, or facilities, both public and private, wherever feasible;

(6) Seek the advice and assistance of the Advisory Council, created pursuant to Section 5 of this act, in gathering information on all existing programs, educational materials and facilities; and

(7) Address his activity toward the environmental problems and priorities established by the North Carolina Council on State Goals and Policies.

Sec. 5. Advisory Council and Fiscal Review Board. (a) There is hereby created an Advisory Council to advise and assist the Secretary, or his designee, in carrying out the provisions of this act. The Advisory Council shall consist of seven members, appointed as follows:

(1) The Governor shall appoint five members: Two to represent the business and industrial community of the State; two to represent civic groups of the State; and one to represent local elected and appointed governmental officials.

(2) The Board of Governors, University of North Carolina, shall appoint one member.

(3) The North Carolina Board of Education shall appoint one member.

(b) There is hereby created a Fiscal Review Board (hereinafter referred to as "Board") which shall determine annually how the funds appropriated under this act shall be allocated and expended pursuant to Section 4 of this act. The Board shall consist of five members, appointed as follows: One member shall be selected by the State Board of Education; two members shall be selected by the Secretary; and two members shall be selected by the Governor. No member of the Board may have an interest, directly or indirectly, in any qualifying institution, as defined in this act. All members of the Board prior to selection shall have demonstrated an interest in environmental education and information dissemination. The members of the Board shall serve at the pleasure of the Governor.

(c) The Secretary shall sit as an ex officio member of the Board but shall have a vote only in the event of a tie vote on the matter of allocation of funds.

(d) Both the Advisory Council and the Board shall submit an annual report to the Governor for transmittal to the General Assembly. Each report shall set forth with such specificity the respective activities of the Advisory Council and Board in order that the General Assembly may properly evaluate the success of the Program, and the desirability of its continuance.

(e) Membership on the Advisory Council or the Board is hereby declared to be an office which may be held concurrently with other elective or appointive offices in addition to the maximum number of offices permitted to be held by one person under G.S. 128-1.1.

Sec. 6. Grants. The objective of grants made under the provisions of this act shall be to promote the further development of local and regional environmental education and information dissemination to aid especially, but not limited to, school-age children.

(1) Capital Improvement Grants. Applications for capital improvement grants will be awarded on a 50-50 matching basis to qualifying institutions. Applications will be received and evaluated by the Board, which shall have the final say as to which projects will be funded. All capital improvement grants may not exceed a total of one hundred thousand dollars (\$100,000).

(2) Grants for Staff, Equipment and Supplies. Applications for funding of staff positions, equipment and supplies shall be submitted to the Secretary for the approval of the Board. No one grant may exceed ten thousand dollars (\$10,000). The grant monies may be disbursed directly to a local school administrative unit that is acting jointly with a local institution or said monies may be disbursed directly to the applicant.

Sec. 7. Definitions. For the purposes of this act:

(1) "Environmental" means those principles drawn from the natural and social sciences which seek to explain the interaction of the human and nonhuman ecology.

(2) "Qualifying Institution" means a nonprofit institution, publicly or privately owned, which makes available to the general public educational and informational materials, programs and services intended to further the understanding of environmental concepts as exemplified in the natural sciences, and the social sciences.

(3) "Secretary" means the Secretary of the Department of Administration.

Sec. 8. Appropriation. There is hereby appropriated, in addition to all other appropriations, the sum of ninety-five thousand dollars (\$95,000) for the

fiscal year 1973-74 to the Department of Administration to carry out the provisions of this act.

Sec. 9. This act shall become effective on July 1, 1973, and shall remain in effect until June 30, 1974. Those funds which are not allocated by June 30, 1974, and expended by September 1, 1974, shall be returned to the General Fund of the State.

In the General Assembly read three times and ratified, this the 18th day of May, 1973.

H. B. 1128

CHAPTER 620

AN ACT TO FURTHER EFFECTUATE THE REORGANIZATION OF STATE GOVERNMENT #3.

The General Assembly of North Carolina enacts:

Sec. 1. *Department of Military and Veterans Affairs; creation.*—There is hereby re-created and reconstituted a department to be known as the “Department of Military and Veterans Affairs”, with the organization, powers, and duties hereafter defined in the Executive Organization Act of 1973.

Sec. 2. *Duties of the Department.*—It shall be the duty of the Department to provide National Guard Troops trained by the State to federal standards; to insure the preparation, coordination, and currency of military and civil preparedness plans and the effective conduct of emergency operations by all participating agencies to sustain life, prevent, minimize, or remedy injury to persons and damage to property resulting from disasters caused by enemy attack or other hostile actions or from disasters due to natural or man-made causes; and to provide assistance to veterans, their families, and their dependents, in obtaining or maintaining privileges, rights, and benefits to which they are entitled under federal, State, or local laws.

Sec. 3. *Functions of the Department of Military and Veterans Affairs.*—
(a) The functions of the Department of Military and Veterans Affairs shall comprise, except as otherwise expressly provided by the Executive Organization Act of 1973 or by the Constitution of North Carolina, all functions of the executive branch of the State in relation to military and veterans affairs delineated in the foregoing section and further including those prescribed powers, duties, and functions enumerated in Article 18 of Chapter 143A of the General Statutes.

(b) All such functions, powers, duties, and obligations heretofore vested in any agency enumerated in Article 18 of Chapter 143A of the General Statutes are hereby transferred to and vested in the Department of Military and Veterans Affairs, except as otherwise provided by the Executive Organization Act of 1973. They shall include, by way of extension and not of limitation, the functions of:

(1) The Adjutant General's Department, (2) The State Civil Defense Agency, (3) The State Civil Air Patrol, (4) The Department of Veterans Affairs, (5) The State Board of Veterans Affairs, (6) The Armory Commission, and (7) The National Guard Mutual Assistance Compact.

Sec. 4. *Head of the Department.*—The Secretary of Military and Veterans Affairs shall be the head of the Department.

Sec. 5. *Organization of the Department.*—The Department of Military and Veterans Affairs shall be organized initially to include the Veterans Affairs

Commission, the Division of Veterans Affairs, the Division of Civil Preparedness, the Division of Civil Air Patrol, the Division of the National Guard, and such other divisions as may be established under the provisions of the Executive Organization Act of 1973.

Sec. 6. Confidentiality of records.—Notwithstanding any other provisions of the Executive Reorganization Act of 1973, no records of the Department of Military and Veterans Affairs shall be disclosed or used for any purpose except official purposes, and no records shall be disclosed, destroyed or used in any manner which is in violation of any existing federal law or regulation. Nothing in this act shall convert records which are the property of the federal government into State property.

Sec. 7. Veterans Affairs Commission; creation, powers, and duties.—There is hereby created the Veterans Affairs Commission of the Department of Military and Veterans Affairs. The Veterans Affairs Commission shall have the following functions and duties:

(1) to advise the Secretary of Military and Veterans Affairs on matters relating to the Department's activities with respect to veterans;

(2) to maintain a continuing review of the operation of existing programs for veterans and their dependents in the State and to make any recommendations to the Secretary of Military and Veterans Affairs for improvements and additions to such programs to which the secretary shall give due consideration;

(3) to serve collectively as a liaison between the Department and the veterans organizations represented on the Commission;

(4) to promulgate rules and regulations concerning the awarding of scholarships for children of North Carolina veterans as provided by Article 4 of Chapter 165 of the General Statutes of North Carolina. The Commission shall make rules and regulations consistent with the provisions of this Chapter. All rules and regulations not inconsistent with the provisions of this Chapter heretofore adopted by the State Board of Veterans Affairs shall remain in full force and effect unless and until repealed or superseded by action of the Veterans Affairs Commission. All rules and regulations adopted by the Commission shall be enforced by the Department of Military and Veterans Affairs; and

(5) to advise the Secretary of Military and Veterans Affairs on any matter the Secretary may refer to it.

Sec. 8. Veterans Affairs Commission; members, selection, quorum, compensation.—The Veterans Affairs Commission shall consist of five voting members all of whom shall be veterans, appointed by the Governor for five-year terms. In making these appointments, the Governor shall insure that both major political parties will be continuously represented on the Veterans Affairs Commission.

Initial members of the Commission shall be the appointed members of the present State Board of Veterans Affairs who shall serve for a period equal to the remainder of their current terms on the State Board of Veterans Affairs, one of whose appointment expires May 16, 1973; one of whose appointment expires May 16, 1974; one of whose appointment expires May 16, 1975; one of whose appointment expires May 16, 1976; and one of whose appointment expires May 16, 1977. At the end of the respective terms of office of the initial members of the Commission, the appointments of all members shall be for terms of five years and until their successors are appointed and qualify. Any appointment to

fill a vacancy on the Commission created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term. The Governor shall have the power to remove any member of the Commission from office in accordance with the provisions of Section 13 of the Executive Organization Act of 1973. In addition to the five members appointed by the Governor, the Department Commander or official head of each veterans organization which has been chartered by an act of the United States Congress and is legally constituted and operating in this State pursuant to said Chapter may serve, at his option, as an ex-officio, nonvoting member of the Commission.

The Governor shall designate one member of the Commission to serve as chairman to serve at the pleasure of the Governor.

Members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Commission shall constitute a quorum for the transaction of business.

The Veterans Affairs Commission shall meet at least twice per year and may hold special meetings at any time and place within the State at the call of the chairman or upon the written request of at least three members.

All clerical and other services required by the Commission shall be provided by the Secretary of Military and Veterans Affairs.

Sec. 9. Department of Military and Veterans Affairs; conforming changes.—(a)(1) Whenever the words "Adjutant General's Department" or "North Carolina Department of Veterans Affairs" or "Department", when referring to the Adjutant General's Department or the North Carolina Department of Veterans Affairs are used or appear in any statute or law of this State, the same shall be deleted and the words "Department of Military and Veterans Affairs" or "Department", as appropriate, shall be inserted in lieu thereof with the exception that in the following references the words "Department of Veterans Affairs" are deleted and the words "Veterans Affairs Commission" are inserted in lieu thereof: G.S. 165-22.1(a), lines 4 and 7; G.S. 165-22.1(d), line 17; G.S. 165-22.1(e), lines 1 and 4.

(2) Whenever the words "Director of Civil Defense" or "Director", when referring to the Director of Civil Defense are used or appear in any statute or law of this State, the same shall be deleted and the words "Secretary of Military and Veterans Affairs" or "Secretary", as appropriate, shall be inserted in lieu thereof, unless otherwise provided for in the Executive Organization Act of 1973.

(3) Whenever the words "North Carolina Armory Commission" or "Armory Commission" or "Commission", when referring to the North Carolina Armory Commission, are used or appear in any statute or law of this State, the same shall be deleted and the words "Department of Military and Veterans Affairs" or "Department", as appropriate, shall be inserted in lieu thereof, unless otherwise provided for in the Executive Organization Act of 1973.

(4) Whenever the words "Director of the Department of Veterans Affairs," "State Director of Veterans Affairs," or "Director" when referring to the Director of the Department of Veterans Affairs are used or appear in any statute or law of this State, the same shall be deleted and the words "Secretary of Military and Veterans Affairs" or "Secretary" as appropriate is hereby inserted in lieu thereof with the exception that in the following reference the words "Director of the Department of Veterans Affairs" are hereby deleted and the

words "Veterans Affairs Commission" are inserted in lieu thereof: G.S. 165-22.1(e), line 4.

(b) In addition to the foregoing, the following amendments to the General Statutes of North Carolina are hereby made:

(1) G.S. 127-12 is hereby rewritten to read as follows: "§ 127-12. *Adjutant General*.—The military head of the militia shall be the Adjutant General who shall hold the rank of Major General. The Adjutant General shall be appointed by the Governor in his capacity as Commander-in-Chief of the militia, in consultation with the Secretary of Military and Veterans Affairs, and shall serve at the pleasure of the Governor. No person shall be appointed as Adjutant General who has had less than five years' commissioned service in an active status in any component of the armed forces of the United States. The Adjutant General, while holding such office, may be a member of the active National Guard or naval militia."

(2) Chapter 127 of the General Statutes is hereby amended by inserting therein a new section, G.S. 127-13, to read as follows: "§ 127-13. *Administrative and operational relationships of the Adjutant General*.—In all administrative and operational matters affecting the militia while under State control, the Adjutant General shall be responsible to and subject to the direction and supervision of the Secretary of Military and Veterans Affairs."

(3) G.S. 127-14 is hereby rewritten to read as follows: "§ 127-14. *National Guard*.—The National Guard class of the five classes of the State militia as established under G.S. 127-1 is hereby designated the North Carolina National Guard. Those elements of the North Carolina National Guard which receive 'Federal Recognition' by the United States Government shall hold a dual status both as State troops and as a reserve component of the armed forces of the United States. In its federal status, the North Carolina National Guard shall be subject to federal laws and regulations pertaining thereto. The Adjutant General shall ensure compliance with such federal laws and regulations and with all State laws and orders of the Governor not inconsistent with those federal laws and regulations."

Subject to the approval of the Governor and in consultation with the Secretary of Military and Veterans Affairs, the Adjutant General may appoint a Deputy Adjutant General and an Assistant Adjutant General for Air National Guard, both of whom may hold the rank of Brigadier General and who shall serve at the pleasure of the Governor. The Adjutant General may also employ such staff members and other personnel as may be authorized by the Secretary and funded."

(4) G.S. 127-15 is hereby amended by deleting the words "Governor may authorize" appearing in the second sentence thereof immediately following the words "salary as the" and inserting in lieu thereof the words "State Personnel Act may provide".

(5) G.S. 143-234 is hereby rewritten to read as follows:

"§ 143-234. *Power to acquire land, make contracts, etc.*—In furtherance of the duties, power, and authority given herein, the Department of Military and Veterans Affairs is authorized and empowered within the limitations of G.S. 143-341 to accept and hold title to real property in the name of the State of North Carolina, and to enter in contracts and do any and all things necessary to carry out any statewide programs for the acquisition of armories and armory sites, the construction and maintenance of armories, and to provide facilities

which may be considered by it as necessary for any unit and which may be authorized by Act of Congress or otherwise.”

(6) G.S. 165-3(1) is hereby rewritten to read as follows: “(1) ‘Commission’ means the Veterans Affairs Commission”.

(7) G.S. 166-3 is hereby rewritten to read as follows:

“§ 166-3. *State Civil Preparedness Agency*.—The Department of Military and Veterans Affairs shall be the State Civil Preparedness Agency.”

(8) G.S. 167-2 is hereby amended by deleting from line 2 thereof the words “including the members of the Governing Board thereof, except the Adjutant General.”

(9) The third sentence of G.S. 165-22.1(a) being lines 11 through 14 shall be rewritten to read as follows: “The Department of Military and Veterans Affairs shall maintain the primary and necessary records, and the Veterans Affairs Commission shall promulgate such rules and regulations not inconsistent with the other provisions of this Article as it deems necessary for the orderly administration of the program.

(c) The following sections of the General Statutes of North Carolina are hereby repealed: G.S. 127-18; G.S. 143-230; G.S. 143-231; G.S. 165-3(3); G.S. 165-5; G.S. 165-6(10); G.S. 165-7; G.S. 167-1; G.S. 167-3; and Article 18 of Chapter 143A of the General Statutes of North Carolina, being sections G.S. 143A-231 through G.S. 143A-238.

(d)(1) Chapter 476 of the 1973 Session Laws of North Carolina is hereby amended by amending Section 2 thereof by adding the following:

“4. Department of Military and Veterans Affairs.”

(2) Chapter 476 of the 1973 Session Laws of North Carolina is hereby amended by amending Section 6(a) thereof by adding the following:

“4. Department of Military and Veterans Affairs.”

(3) Chapter 476 of the 1973 Session Laws of North Carolina is hereby amended by amending Section 6(b) thereof by deleting the word “and” immediately following the words “G.S. 143A-11(17),” and inserting the words “and G.S. 143A-11(19)” immediately following the words “G.S. 143A-11(18)”.

Sec. 10. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 18th day of May, 1973.

H. B. 1143

CHAPTER 621

AN ACT TO AMEND PART 4 AND PART 6, OF ARTICLE 21, OF CHAPTER 143 TO PROVIDE FOR THE STATE TO ENTER INTO CONTRACTUAL AGREEMENTS WITH THE U.S. GOVERNMENT AS NOW VESTED IN LOCAL GOVERNING BODIES AND TO PROVIDE FLOODWAY REGULATION BY THE BOARD OF WATER AND AIR RESOURCES IN CERTAIN CIRCUMSTANCES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-215.41 is hereby amended by striking from line 2 thereof the word “of” appearing immediately following the words “the State of North Carolina” and inserting in lieu thereof the word “or”.

Sec. 2. G.S. 143-215.42(a) is amended by rewriting the first sentence thereof to read as follows:

"For the purpose of complying with the terms of local cooperation as specified in Chapter 143, Article 21, Part 4, and as stipulated in the congressional document covering the particular project involved, any county, municipality, other local government unit or the State of North Carolina, acting on behalf of the Board of Water and Air Resources, may acquire the necessary lands, or interest in lands, by lease, purchase, gift or condemnation."

Sec. 3. G.S. 143-215.42(b) is amended by rewriting the first sentence thereof to read as follows:

"The power of condemnation herein granted to counties, municipalities and other local government units may be exercised only after:"

Sec. 4. G.S. 143-215.42(f) is rewritten to read as follows:

"(f) Interests in land acquired pursuant to this section may be used in such manner and for such purpose as the condemning authority deems best. If the local government unit so determines, such lands may be sold, leased, or rented, subject to the prior approval of the Board of Water and Air Resources. The State may sell, lease or rent any lands acquired by it, and if the Board of Water and Air Resources is participating with any local government unit or units in a water resources project under this Article, may convey such lands or interests to the unit or units as a part of its participation therein."

Sec. 5. G.S. 143-215.51 is rewritten to read as follows:

"§ 143-215.51. *Preamble.*—The purpose of this Part is to specify means for regulation of artificial obstructions in floodways. It is hereby declared that the channel and a portion of the floodplain of all the State's streams will be designated as a floodway, in which artificial obstructions may not be placed except in accordance with the provisions of this Part. The purpose of designating these areas as a floodway is to help control and minimize the extent of floods by preventing obstructions which inhibit water flow and increase flood height and damage, and thereby to prevent and minimize loss of life, injuries, property damage and other losses (both public and private) in flood hazard areas, and to promote the public health, safety and welfare of citizens of North Carolina in flood hazard areas."

Sec. 6. G.S. 143-215.56 is amended by rewriting subsection (c) to read as follows:

"(c) A local government may delineate any floodway subject to its regulation by showing it on a map or drawing, by a written description, or any combination thereof, to be designated appropriately and filed permanently with the clerk of superior court and with the register of deeds in the county where the land lies. The Board of Water and Air Resources may delineate a floodway, in the same manner and subject to the same requirement, when the reach of a stream in which a floodway is determined by the Board to be needed exceeds the jurisdiction of a single local government. Alterations in the lines delineated shall be indicated by appropriate entries upon or addition to such map or description. Such entries or additions shall be made by or under the direction of the clerk of superior court. Photographic, typed or other copies of such map or description, certified by the clerk of superior court, shall be admitted in evidence in all courts and shall have the same force and effect as would the original map or description. A local government or the Board may provide for the redrawing of any such map. A redrawn map shall supersede for all purposes the earlier map or maps which it is designated to replace upon the filing and approval thereof as designated and provided above."

Sec. 7. G.S. 143-215.56 is further amended by adding thereto a new subsection to read as follows:

“(d) If the Board of Water and Air Resources determines that the floodway of any stream or stream segment should be delineated and the use thereof controlled as provided in this Part, and the local governments within which the stream or segment lies have not delineated the floodway or controlled uses therein, the Board shall advise the local governments of its intent to delineate the floodway, and it shall be the responsibility of the local governments to control uses therein. At least 30 days prior to the effective date specified in the resolution of the Board establishing any floodway, notice of the effective date and copies of such rules and regulations shall be delivered to every affected local government along with copies of all maps and plans delineating the floodway. Public notice of the resolution shall be given at least 30 days prior to the effective date by publication of a notice once a week for two successive weeks in a newspaper or newspapers having general circulation in the county or counties in which each affected local government lies and by posting a copy of the notice at the courthouse of each such county, along with a sketch map showing the stream or stream segment affected. The notice shall be adequate to apprise all interested persons of the nature of the rules and regulations, the effective date thereof, the stream or stream segment affected, and the manner in which more detailed information may be secured.”

Sec. 8. G.S. 143-215.54(b)(5) is hereby amended by inserting at line 1 of said paragraph, immediately following the word and punctuation “Lines,” the words and punctuation “railway lines and rights-of-way,”.

Sec. 9. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of May, 1973.

H. B. 1144

CHAPTER 622

AN ACT APPROPRIATING FUNDS TO THE DEPARTMENT OF ART, CULTURE AND HISTORY FOR THE ESTABLISHMENT OF A THEATER ARTS DIVISION.

Whereas, the value of outdoor dramas to the cultural and economic life of the State are well known; and

Whereas, all living theater contributes to the vitality of the State; and

Whereas, there exists a great need to provide both economic and managerial support for some theater operations; and

Whereas, the State has been providing only economic support in a fragmental manner in the past; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated to the Department of Art, Culture and History a sum of seventy-five thousand dollars (\$75,000) for the fiscal year beginning July 1, 1973, and the sum of seventy-five thousand dollars (\$75,000) for the fiscal year beginning July 1, 1974, to establish a Theater Arts Division of the Department of Art, Culture and History. The Theater Arts Division shall provide both managerial and economic aid, when needed and requested by established drama organizations whether existing on the effective date of this act or established thereafter, with precedence being given to outdoor dramas.

Sec. 2. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 18th day of May, 1973.

H. B. 1154**CHAPTER 623**

AN ACT TO APPROPRIATE FUNDS AS MATCHING FUNDS TO ASSIST IN THE CONSTRUCTION OF A BUILDING TO BE KNOWN AS THE CHEROKEE INDIAN MUSEUM AND CULTURAL CENTER.

Whereas, The Cherokee Historical Association, Inc., a non-profit corporation chartered by the State of North Carolina, active since 1949, has presented the outdoor drama "Unto These Hills" since 1956 to 2,944,966 people since 1950, and the attendance at the Ocanoluftee Indian Village, which opened in 1952 has been 2,235,837; and

Whereas, for each of the past five years attendance at the small Museum of the Cherokee Indian has run above 60,000 people and there is a need and demand for the enlargement of this museum in order to provide for many Cherokee Indian artifacts which are now in storage, and in order to provide for the orderly expansion and development of the Museum; and

Whereas, plans for such development, including a new museum building, have been prepared after adequate study, by a Joint Committee of The Eastern Band of Cherokee Indians, The Cherokee Historical Association, Inc., and the Museum of the Cherokee Indian, a non-profit North Carolina corporation, to construct the new museum building referred to, in order that the artifacts, objects of Indian art and culture, relics, documents, crafts and information incident to the language and culture of the Cherokee Indian may be preserved and cared for and made available for public enjoyment and enlightenment; and

Whereas, the organizations from which the members of said planning and sponsoring Joint Committee were chosen and authorized to make said plans are able and willing to fund in large part the cost of constructing and equipping said museum building, estimated at \$820,000; and

Whereas, said organizations are in position to match dollar for dollar from their own and other sources any appropriation made by the State of North Carolina, any amount appropriated by the State as a grant-in-aid for said project; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund for the purpose of assisting in the construction of a building, to be known as the Cherokee Indian Museum and Cultural and Cultural Center, in or near the town of Cherokee, in Swain County, North Carolina, and on lands owned by the Eastern Band of Cherokee Indians, the sum of two hundred fifty thousand dollars (\$250,000), subject to the raising and commitment of a like amount by the Cherokee Historical Association, Inc. and others after July 1, 1973, said appropriation to be a grant-in-aid for said purpose.

Sec. 2. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 18th day of May, 1973.

H. B. 1177

CHAPTER 624

AN ACT TO APPROPRIATE FUNDS FOR IMPROVING THE FERRY SERVICE BETWEEN THE OFF-SHORE ISLANDS AND THE NORTH CAROLINA MAINLAND.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the Highway Fund of the State of North Carolina to the State Highway Commission, in addition to all other appropriations, the sum of one million dollars (\$1,000,000) for the fiscal year 1973-74 for the purpose of improving the ferry service between the off-shore islands and the North Carolina mainland.

Sec. 2. This act shall become effective on July 1, 1973.

In the General Assembly read three times and ratified, this the 18th day of May, 1973.

H. B. 1194

CHAPTER 625

AN ACT TO AMEND THE GENERAL STATUTES OF NORTH CAROLINA SO AS TO PROVIDE PENSIONS FOR MEMBERS OF THE NATIONAL GUARD OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. Chapter 127 of the North Carolina General Statutes is hereby amended by adding a new section, G.S. 127-30.1, immediately following G.S. 127-30 and immediately preceding G.S. 127-31, such new section to read:

“§ 127-30.1. *Pensions for members of the North Carolina National Guard.*—

(a) Every member of the National Guard of North Carolina who meets the requirements hereinafter set forth shall receive, commencing at age 60, a pension of fifty dollars (\$50.00) per month for 20 years' creditable military service with an additional five dollars (\$5.00) per month for each additional year of such service; provided, however, that the total pension shall not exceed one hundred dollars (\$100.00) per month. The requirements for such pension are that each member shall:

- (1) Have served and qualified for at least 20 years' creditable military service, including National Guard, Reserve and Active Duty, under the same requirement specified for entitlement to retired pay for nonregular service under Chapter 67, Title 10, United States Code.
- (2) Have at least 15 years of the aforementioned service as a member of the North Carolina National Guard and the final or last 10 years of service immediately prior to retirement shall have been in the North Carolina National Guard.
- (3) Have received an honorable discharge from the North Carolina National Guard.

(b) Payment to a retired member of the National Guard of North Carolina under the provisions of this Article will cease at the death of the individual and no payment will be made to beneficiaries or to the decedent's estate.

(c) No individual receiving retired pay as a result of length of service, age, or physical disability retirement from any of the regular components of the Armed Forces of the United States will be eligible for benefits under this section.

(d) Nothing contained in this Article shall preclude or in any way affect the benefits that an individual may be entitled to from State, Federal or private retirement systems.

(e) Benefits paid under the provisions of this Article shall be exempt from the North Carolina income tax.

(f) The provisions of this Article shall be administered by the Adjutant General of the State of North Carolina. The Adjutant General shall not employ additional personnel to administer this Article.

(g) The provisions of this section shall apply to:

(1) Members of the North Carolina National Guard serving therein on or after July 1, 1974;

(2) Any person who fully qualifies for the pension and is involuntarily separated from the North Carolina National Guard for reasons other than misconduct between the date of ratification of this section and July 1, 1974, with eligibility of such person commencing at age 60 or July 1, 1974, whichever is the later date."

Sec. 2. This act shall become effective on July 1, 1974.

In the General Assembly read three times and ratified, this the 18th day of May, 1973.

H. B. 1236

CHAPTER 626

AN ACT TO APPROPRIATE \$85,000 TO THE TORY HOLE RECREATION PARK IN BLADEN COUNTY.

Whereas, in July of 1781, a bloody and decisive battle was fought in Bladen County between the Tory-Loyalist and Whig-Patriots for control of the Bladen County area; and

Whereas, the valiant Patriots fighting to gain control of their homeland, were able to demoralize the enemy and cause the enemy to fall back in a blind retreat; and

Whereas, in the course of their retreat the Tories leaped frantically into a deep ravine; and

Whereas, said ravine become known and is still known as "The Tory Hole"; and

Whereas, "The Tory Hole" and several acres of adjoining land are suitable for development as a recreational area which would be beneficial to the citizens of Bladen County and Southeastern North Carolina and such development would also preserve a valuable Revolutionary Historic Site for generations of North Carolinians; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Tory Hole Recreational Park Development Project the sum of eighty-five thousand dollars (\$85,000) for fiscal year 1973-74 to be used in the development of the Tory Hole Recreational Park.

Sec. 2. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 18th day of May, 1973.

H. B. 1237

CHAPTER 627

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF HUMAN RESOURCES FOR THE ESTABLISHMENT AND OPERATION, WITHIN THE DEPARTMENT, OF A RURAL COMMUNITY HEALTH ASSISTANCE DIVISION, AND FOR THE CARRYING OUT OF THE LAWFUL PROGRAMS OF THAT DIVISION.

The General Assembly of North Carolina enacts:

Section 1. In addition to all other appropriations for the fiscal year 1973-74, there is hereby appropriated to the Department of Human Resources for the fiscal year 1973-74, out of the General Fund, four hundred fifty-six thousand dollars (\$456,000) for the establishment and operation, within the Department, of a Rural Community Health Assistance Division and for the carrying out of the lawful programs of that division.

Sec. 2. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 18th day of May, 1973.

H. B. 1317

CHAPTER 628

AN ACT TO AMEND ARTICLE 38B OF CHAPTER 115 OF THE GENERAL STATUTES RELATING TO EDUCATION EXPENSE GRANTS FOR EXCEPTIONAL CHILDREN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115-315.10 is rewritten to read:

"Amount of State grants. It shall be the policy of the State to make an education expense grant available to each eligible child, as provided under this Article, to cover the cost of tuition in a private or out-of-state educational facility, provided that the amount of said grant shall not exceed two thousand dollars (\$2,000) per year per child."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of May, 1973.

H. B. 1319

CHAPTER 629

AN ACT TO AMEND ARTICLE 3 OF CHAPTER 20 RELATING TO THE MOTOR VEHICLE ACT OF 1937.

The General Assembly of North Carolina enacts:

Section 1. The next to last sentence of G.S. 20-63(h) is rewritten to read:

"Commission contracts entered into hereunder shall provide for the payment of compensation at a rate per registration plate as may be set by the General Assembly."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of May, 1973.

H. B. 1331

CHAPTER 630

AN ACT AUTHORIZING THE DEPARTMENT OF HUMAN RESOURCES TO ESTABLISH A PRE-SCHOOL SATELLITE PROGRAM FOR THE DEAF AND EDUCATIONALLY HARD-OF-HEARING CHILDREN IN THE STATE.

The General Assembly of North Carolina enacts:

Section 1. From funds appropriated to the Department of Human Resources for the purpose of this act, the Department is authorized to establish pre-school satellite programs for the deaf and educationally hard-of-hearing children of the State.

Sec. 2. The Department of Human Resources shall promulgate rules and regulations for the establishment of such pre-school satellite programs.

Sec. 3. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 18th day of May, 1973.

H. B. 1332

CHAPTER 631

AN ACT TO AMEND CHAPTER 693 OF THE 1971 SESSION LAWS TO PROVIDE CHANGE ONLY WITH RESPECT TO A SELF-LIQUIDATING PROJECT.

The General Assembly of North Carolina enacts:

Section 1. Chapter 693 appearing on page 691 of the 1971 Session Laws is amended with respect to Section 4, page 699 of the Session Laws, under Elizabeth City State University, Item 9, Health and Physical Education Building, by deleting the words "less Federal funds" and substituting in lieu thereof the words "less self-liquidating".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of May, 1973.

S. B. 908

CHAPTER 632

AN ACT TO AMEND PORTIONS OF THE STATE IMMUNIZATION LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-87 is hereby rewritten to read as follows:

"§ 130-87. *Immunization required.*—Every child residing in this State shall be immunized against diphtheria, tetanus, whooping cough, poliomyelitis, and red measles (rubeola) and, in addition, shall be immunized against smallpox upon a determination by the State Board of Health that such immunization is in the best interest of public health. The Board shall adopt rules and regulations setting forth the required immunizations, the child's age for administering each vaccine, and the adequately immunizing doses. Only those vaccine preparations may be used which meet the standards of the United States Food and Drug Administration or any agency succeeding to its responsibilities for licensing vaccines and are also approved for use by the State Board of Health."

Sec. 2. G.S. 130-90 is hereby rewritten to read as follows:

“§ 130-90. *School admittance.*—Any parent, parents, guardian or person in loco parentis who has a child admitted to any public, private or parochial school in North Carolina shall, within 30 days of the first official day of the school year, present to the school authorities a certificate of immunization or some other acceptable medical evidence that the child has received the required immunizations. If a child is admitted to a public, private or parochial school in North Carolina after the first official day of the school year, the required immunizations must be completed within a 30-day period dating from the first day of admission to school. It shall be the duty of school authorities to inform the parent, parents, guardian or person in loco parentis of this requirement on or before the first official day of the school year or first day of admission. No teacher or principal shall permit a child to continue in school after expiration of this 30-day period unless the parent, parents, guardian or person in loco parentis responsible for such child presents evidence of immunization as described previously in this section.”

Sec. 3. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

H. B. 23

CHAPTER 633

AN ACT TO REIMBURSE A. C. WIDENHOUSE TRANSPORT FOR DAMAGES INCURRED WHILE ASSISTING LAW ENFORCEMENT.

Whereas, on February 6, 1972, at approximately 1:30 a.m., the State Highway Patrol received a message that a Trailways bus had been hijacked and that the hijacker had robbed all the passengers, after which all passengers were forced from the bus, except one lady who was being held as a hostage; and

Whereas, after every effort to stop the hijacked bus failed, the bus had been driven by the hijacker through the Town of Rockwell at 60 miles per hour, all traffic lights being red, and had attempted to hit numerous motorists whom he had met on the highway, and due to the seriousness of the situation, it was determined that the hijacked bus must be stopped and a roadblock was ordered; and

Whereas, a tractor-trailer tanker, the property of A. C. Widenhouse Transport, along with the State Highway Patrol vehicle was used to set up the necessary roadblock as the highway was four lanes and heavy equipment was needed to stop the hijacked bus; and

Whereas, the hijacker operating the hijacked bus increased the speed of the bus to 70 to 75 miles per hour and attempted to run the roadblock, totalling the State Highway Patrol vehicle and damaging the trailer of the tractor-trailer tanker belonging to A. C. Widenhouse Transport in the amount of four hundred fifty-five dollars (\$455.00); and

Whereas, the action of the law enforcement officers in commandeering the tractor-trailer tanker was intentional in order to set up an effective roadblock; and

Whereas, A. C. Widenhouse Transport's claim does not fall within the purview of the Torts Claim Act nor does A. C. Widenhouse Transport have a remedy at law; and

Whereas, the damages sustained by A. C. Widenhouse Transport resulted from assisting law enforcement officers while acting in the public interest and the claim filed in the amount of four hundred fifty-five dollars (\$455.00) by A.

C. Widenhouse Transport as a result thereof is a legitimate claim which should be paid; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated out of the general fund of the State to the Department of Transportation, Motor Vehicles Division, the sum of four hundred fifty-five dollars (\$455.00) to be paid to A. C. Widenhouse Transport to reimburse it for damages to its tractor-trailer tanker; provided, however, that in the event such damages or any portion thereof shall be recovered by A. C. Widenhouse Transport from a third party or parties, the sum so recovered shall be repaid to General Fund of the State of North Carolina.

Sec. 2. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

H. B. 89

CHAPTER 634

AN ACT TO PROVIDE A DEATH BENEFIT FOR DEPENDENTS OF LAW ENFORCEMENT OFFICERS, FIREMEN AND RESCUE SQUAD WORKERS.

The General Assembly of North Carolina enacts:

Section 1. The title of Article 12A of Chapter 143 of the General Statutes of North Carolina is hereby amended to read: "Law Enforcement Officers', Firemen's and Rescue Squad Workers' Death Benefit Act."

Sec. 2. G.S. 143-166.1 through 143-166.3 are hereby amended to read as follows:

"§ 143-166.1. *Purpose.*—In consideration of hazardous public service rendered to the people of this State, there is hereby provided a system of benefits for dependents of law enforcement officers, firemen, and rescue squad workers killed in the discharge of their official duties.

"§ 143-166.2. *Definitions.*—The following words and phrases, when used in this Article, shall have the meanings assigned to them by this section unless the context clearly indicated another meaning:

(1) The term 'dependent child' shall mean any unmarried child of the deceased officer, fireman, or rescue squad worker, whether natural, adopted, posthumously born or whether an illegitimate child as entitled to inherit under the Interstate Succession Act, who is under 18 years of age and dependent upon and receiving his chief support from said officer or fireman or rescue squad worker at the time of his death; provided, however that if a dependent child is entitled to receive benefits at the time of the officer's or fireman's or rescue squad worker's death as hereinafter provided, he shall continue to be eligible to receive such benefits regardless of his age thereafter; and further provided that any child over 18 years of age who is physically or mentally incapable of earning a living and any child over 18 years of age who was enrolled as a full-time student at the time of the officer's, the fireman's or the rescue squad worker's death shall so long as he remains a full-time student as defined in the Social Security Act be regarded as a dependent child and eligible to receive benefits under the provisions of this act.

(2) The term 'dependent parent' shall mean the parent of the deceased officer, fireman, or rescue squad worker, whether natural or adoptive, who was

dependent upon and receiving his total and entire support from the officer, fireman, or rescue squad worker at the time of the injury which resulted in his death;

(3) The term 'killed in the line of duty' shall apply to any law enforcement officer, fireman, or rescue squad worker who is killed or died as a result of injuries received while in the discharge of his official duty or duties.

(4) The term 'law enforcement officer', 'officer', or 'fireman' shall mean all law enforcement officers employed full-time by the State of North Carolina or any county or municipality thereof and all full-time custodial employees of the North Carolina Department of Corrections. The term 'fireman' shall mean 'eligible fireman' or 'fireman' as defined in G.S. 118-23. The term 'rescue squad worker' shall mean a person who is dedicated to the purpose of alleviating human suffering and assisting anyone who is in difficulty or who is injured or becomes suddenly ill by providing the proper and efficient care of emergency medical services and who belongs to an organized rescue squad.

(5) The term 'spouse' shall mean the wife or husband of the deceased officer, fireman, or rescue squad worker who survives him and who was residing with such officer, fireman, or rescue squad worker at the time of and during the six months next preceding the date of injury to such officer, fireman, or rescue squad worker which resulted in his death and who also resided with such officer, fireman, or rescue squad worker from that date of injury up to and at the time of his death and who remains unmarried during the time benefits are forthcoming; provided, however, the part of this section requiring the spouse to have been residing with the deceased officer, fireman, or rescue squad worker for six months next preceding the date of the injury which resulted in his death shall not apply where marriage occurred during this six-month period or where the officer, fireman, or rescue squad worker was absent during this six-month period due to service in the armed forces of this country.

"§ 143-166.3. *Payments; determination.*—(a) When any law enforcement officer, fireman, or rescue squad worker shall be killed in the line of duty, the Industrial Commission shall award a death benefit to be paid in the amounts set forth in subsection (b) to the following:

- (1) The spouse of such officer, fireman, or rescue squad worker if there be a surviving spouse; or
- (2) If there be no spouse qualifying under the provisions of this Article, then payments shall be made to any surviving dependent child of such officer, fireman, or rescue squad worker; and if there be more than one surviving dependent child, then said payment shall be made to and equally divided among all surviving dependent children; or
- (3) If there be no spouse and no dependent child or children qualifying under the provisions of this Article, then payments shall be made to the surviving dependent parent of such officer, fireman, or rescue squad worker; and if there be more than one surviving dependent parent then said payments shall be made to and equally divided between the surviving dependent parents of said officer, fireman, or rescue squad worker.

(b) Payment shall be made to the person or persons qualifying therefor under subsection (a) in the following amounts:

- (1) At the time of the death of an officer, fireman, or rescue squad worker, ten thousand dollars (\$10,000) shall be paid to the person or persons entitled thereto;
- (2) Thereafter, five thousand dollars (\$5,000) shall be paid annually to the person or persons entitled thereto until the sum of the initial payment and each annual payment reaches twenty-five thousand dollars (\$25,000).
- (3) In the event there is no person qualifying under subsection (a) of this section, twenty-five thousand dollars (\$25,000) shall be paid to the estate of the deceased officer, fireman, or rescue squad worker at the time of death.

(c) In the event that any person or persons eligible for payments under subsection (a) of this section shall become ineligible, and other eligible person or persons qualify for said death benefit payments under subsection (a), then they shall receive the remainder of any payments up to the limit of twenty-five thousand dollars (\$25,000) in the manner set forth in subsection (b) of this section.

(d) In the event any person or persons eligible for payments under subsection (a) of this section shall become ineligible and no other person or persons qualify for payments under that subsection and where the sum of the initial payment of ten thousand dollars (\$10,000) and each subsequent annual payment of five thousand dollars (\$5,000) does not total twenty-five thousand dollars (\$25,000), then the difference between the total of the payments made and twenty-five thousand dollars (\$25,000) shall immediately be payable to the estate of the deceased officer, fireman, or rescue squad worker."

Sec. 3. G.S. 143-166.7. is hereby amended to read as follows:

"§ 143-166.7. *Applicability of Article.*—The provisions of this Article shall apply and be in full force and effect with respect to any law enforcement officer, fireman, or rescue squad worker killed in the line of duty on or after the ratification date of this act."

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

H. B. 97

CHAPTER 635

AN ACT APPROPRIATING FUNDS TO THE STATE AUDITOR FOR THE LAW ENFORCEMENT OFFICERS' BENEFIT AND RETIREMENT FUND FOR THE IMPLEMENTATION OF A REVISED BENEFIT AND RETIREMENT PLAN.

Whereas, under the provisions of G.S. 143-166, the Board of Commissioners of the Law Enforcement Officers' Benefit and Retirement Fund is authorized to promulgate rules and regulations and to provide benefits, contingent upon the availability of funds, for law enforcement officers who are members; and

Whereas, there exists a need to provide for all law enforcement officers a uniform benefit and retirement fund with increased benefits and early retirement; and

Whereas, a detailed study of these needs has been made and the consulting actuary has determined the cost of funding these needs; and

Whereas, included in these cost factors is a provision to allow the transfer of all law enforcement officers who are members of the Teachers' and State Employees' Retirement System and Local Governmental Employees' Retirement System to the Law Enforcement Officers' Benefit and Retirement Fund, thereby enabling all officers to participate in additional benefits; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated to the State Auditor for the Law Enforcement Officers' Benefit and Retirement Fund out of the General Fund of the State the sum of one million forty-nine thousand four hundred sixty-five dollars (\$1,049,465) for the fiscal year beginning July 1, 1973, and out of the Highway Fund the sum of one million forty-nine thousand four hundred sixty-four dollars (\$1,049,464) for the fiscal year beginning July 1, 1973, to be expended for the payment of increased benefits and the administration of an updated benefit and retirement program for law enforcement personnel, which program has been prepared by and will be implemented by the Board of Commissioners of the Law Enforcement Officers' Benefit and Retirement Fund.

Sec. 2. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

H. B. 1341

CHAPTER 636

AN ACT TO CORRECT A TECHNICAL ERROR IN CHAPTER 433 OF THE 1973 SESSION LAWS RELATING TO THE CHARTER OF THE TOWN OF HILDEBRAN.

The General Assembly of North Carolina enacts:

Section 1. Section 2, line six, of Chapter 433 of the 1973 Session Laws is hereby amended by striking the number "1627" and inserting in lieu thereof the number "1628".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

H. B. 307

CHAPTER 637

AN ACT TO PROVIDE STATE GRANTS TO AID CONSTRUCTION OF CAPITAL IMPROVEMENTS AT INSTITUTIONS OF THE COMMUNITY COLLEGE SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115A-18 (a)(1) is hereby amended by deleting in its entirety the last sentence thereof.

Sec. 2. There is hereby appropriated from the General Fund of the State of North Carolina to the State Board of Education, Department of Community Colleges, the sum of fifteen million four hundred eighteen thousand one hundred eighty-seven dollars (\$15,418,187) to be allocated by the State Board of Education to institutions of the North Carolina Community College System

as State grants to aid in the construction or renovation of building and utilities and acquiring land where necessary when equally matched by local funds as set forth in G.S. 115A-18 (a)(1). The allocations to be made in accordance with the following schedule:

Anson T.I.	\$ 252,500
Asheville-Buncombe T.I.	356,000
Beaufort County T.I.	500,000
Bladen T.I.	462,500
<u>Blue Ridge T.I. (Henderson)</u>	<u>500,000</u>
Caldwell C.C. & T.I.	500,000
Cape Fear T.I. (New Hanover)	500,000
Carteret T.I.	500,000
Catawba Valley T.I.	162,681
<u>Central Carolina T.I. (Lee)</u>	<u>215,000</u>
Cleveland County T.I.	252,500
Coastal Carolina C.C. (Onslow)	334,940
Craven T.I.	500,000
Durham T.I.	172,500
<u>Edgecombe T.I.</u>	<u>370,619</u>
Fayetteville T.I. (Cumberland)	343,575
Forsyth T.I.	405,000
Guilford T.I.	250,000
Halifax County T.I.	350,000
<u>Haywood T.I.</u>	<u>450,000</u>
James Sprunt Inst. (Duplin)	350,531
Johnston T.I.	252,500
Martin T.I.	500,000
Mayland T.I. (Mitchell, Avery, Yancey)	500,000
<u>McDowell T.I.</u>	<u>455,782</u>
Montgomery T.I.	500,000
Nash T.I.	252,500
Pamlico T.I.	350,000
Piedmont T.I. (Person)	500,000
<u>Pitt T.I.</u>	<u>250,000</u>
Randolph T.I.	217,101
Richmond T.I.	155,453
Roanoke-Chowan T.I. (Hertford)	350,000
Robeson T.I.	500,000
<u>Rowan T.I.</u>	<u>330,096</u>
Sampson T.I.	5,000
Southwestern T.I. (Jackson)	400,000
Stanly T.I.	500,000
T.I. of Alamance	233,909
<u>Tri-County T.I. (Cherokee)</u>	<u>425,000</u>
Vance-Granville T.I.	252,500
W. W. Holding T.I. (Wake)	250,000
Wayne C. C.	260,000
<u>Wilson County T.I.</u>	<u>250,000</u>
Total	\$15,418,187

Sec. 3. There is further appropriated from the General Fund of the State of North Carolina to the State Board of Education, Department of Community Colleges, the sum of ten million dollars (\$10,000,000) to be allocated by the State Board of Education to institutions of the North Carolina Community College System as State grants to aid in the purchase, construction or renovations of buildings and utilities and acquiring land where necessary, provided, that the grants awarded from the appropriations made in this section are equally matched from local funds as set forth in G.S. 115A-18(a)(1). Except when in the opinion of the State Board of Education institutional needs have changed, the allocations are to be made in accordance with the following schedule:

Asheville-Buncombe T.I.	\$ 33,195
Beaufort County T.I.	91,291
Blue Ridge T.I. (Henderson)	40,752
Cape Fear T.I. (New Hanover)	159,827
Catawba Valley T.I.	342,480
Central Carolina T.I. (Lee)	70,999
Central Piedmont C.C. (Meck)	2,641,991
Cleveland County T.I.	68,452
Coastal Carolina C.C. (Onslow)	296,419
College of Albermarle (Pasquotank)	91,170
Craven T.I.	174,676
Davidson County C.C.	530,042
Durham T.I.	286,812
Edgecombe T.I.	6,389
Fayetteville T.I. (Cumberland)	432,637
Forsyth T.I.	388,881
Gaston College	215,196
Guilford T.I.	796,419
Halifax County T.I.	14,221
Lenoir C.C.	153,183
Martin T.I.	69,620
Montgomery T.I.	66,011
Piedmont T.I.	185,086
Pitt T.I.	95,807
Randolph T.I.	70,776
Richmond T.I.	28,185
Rockingham C.C.	310,816
Rowan T.I.	131,901
Sandhills C.C. (Moore)	302,654
Southeastern C.C. (Columbus)	394,773
Southwestern T.I. (Jackson)	162,257
Stanly T.I.	66,011
Surry C.C.	79,481
T.I. of Alamance	321,176
Tri-County T.I.	11,234
W.W. Holding T.I. (Wake)	410,747
Wayne C.C.	301,878
Wilson County T.I.	156,555
Total	\$10,000,000

Sec. 4. Such amounts of the appropriations made in Sections 2 and 3 of this act as may remain unmatched and unallocated as of June 30, 1975, shall revert to the General Fund of the State, except such appropriations may be extended when, in the discretion of the Governor and the Advisory Budget Commission, existing circumstances and conditions warrant such extension.

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

H. B. 512

CHAPTER 638

AN ACT TO APPROPRIATE FUNDS FOR INCENTIVE PAYMENTS TO DOCTORS WHO WILL PRACTICE IN MEDICALLY DEPRIVED AREAS.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund for the fiscal year 1973-74, in addition to any other sums appropriated by this General Assembly for the purpose herein specified, the sum of one hundred thousand dollars (\$100,000) to the North Carolina Medical Care Commission to be used, in accordance with the rules and regulations of the Medical Care Commission, for a pilot incentive program to any person or persons licensed without restriction to practice medicine under Chapter 90 of the General Statutes who will practice medicine in an area or areas assigned to them and considered by the Medical Care Commission to be without adequate medical services.

Sec. 2. Any portion of this appropriation found to be unusable for the purpose stated herein shall be used by the Medical Care Commission for the purpose described in Article 13 of Chapter 131 of the General Statutes.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

H. B. 577

CHAPTER 639

AN ACT FOR CONSTRUCTION AND FOR RENOVATION OF COMMUNITY DEVELOPMENTAL DISABILITIES FACILITIES IN CUMBERLAND COUNTY, SO AS TO PROVIDE DAY CARE AND SHELTERED WORK ACTIVITY SERVICES TO DEVELOPMENTALLY DISABLED CHILDREN AND ADULTS.

Whereas, it has been shown that community-based day services, sheltered workshop services and other services can be used to help the developmentally disabled attain their ultimate potential and use their abilities fully and such services to developmentally disabled children, adults and their families are in extreme need; and

Whereas, the Cumberland County and Fayetteville City Schools have initiated unique community programs in that they are administered by the public schools and serve persons otherwise excluded from public schools by providing day-care services, sheltered workshop services, and other services to developmentally disabled persons and such programs should be models to other communities in the State; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. To provide greater day care, sheltered work activity, and other services beneficial to and necessary for the continued care of developmentally disabled children, adults and their families, funds appropriated from the General Fund of the State to the Medical Care Commission shall provide for Cumberland County the sum of three hundred sixty thousand dollars (\$360,000) for the 1973-74 fiscal year to be allocated as follows: three hundred ten thousand dollars (\$310,000) to be expended for construction of a Developmental Disabilities Day-Care Facility on an adequate site to be provided either by the county or city wherein the same may be located or by both county and city, fifty thousand dollars (\$50,000) to be expended for renovational cost of the facility which will house the sheltered workshop - work activity program. The said three hundred sixty thousand dollars (\$360,000) shall be allocated upon the following conditions:

(1) That fifteen percent (15%) of the construction cost of said developmental disabilities day-care facility shall be provided and paid by the county or city or both by the county and city wherein the facility shall be located.

(2) That such county or city or both shall at its or their own cost and expense provide an adequate site in addition to paying said portion of the construction cost.

(3) That the construction and renovation shall be implemented under the supervision and administration of the Medical Care Commission and through advice from and consultation with the Council on Developmental Disabilities.

Sec. 2. This act shall become effective on July 1, 1973.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

H. B. 639

CHAPTER 640

AN ACT TO ESTABLISH A UNIFORM JUDICIAL RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. Chapter 135 of the General Statutes is hereby amended by inserting therein a new Article 4 to read as follows:

"Article 4.

"Uniform Judicial Retirement Act of 1973.

"§ 135-100. *Short title and purpose.*—(a) This Article shall be known and may be cited as the 'Uniform Judicial Retirement Act of 1973'.

(b) The purpose of this Article is to improve the administration of justice by eliminating certain inequities that now exist in retirement benefits for justices and judges, and by attracting to and retaining on the bench of the General Court of Justice the most highly qualified talent available within the State.

"§ 135-101. *Scope.*—(a) This Article provides uniform retirement benefits for all justices and judges of the General Court of Justice who are so serving on the effective date of this act, or who become such thereafter.

(b) For justices and judges of the Appellate and Superior Court Divisions of the General Court of Justice who so served prior to the effective date of this act, the provisions of this Article supplement, and, under certain circumstances, replace, the provisions of Articles 6 and 8, as the case may be, of Chapter 7A of the General Statutes. For judges of the District Court Division of the General Court of Justice who so served prior to the effective date of this act, the

provisions of this Article supplement, and, under certain circumstances, replace, the provisions of Article 1 of this Chapter.

(c) The retirement benefits of any person who becomes a justice or judge on or after the effective date of this act shall be determined solely in accordance with the provisions of this Article.

“§ 135-102. *Application of Article 1; administration.*—(a) References in Article 1 of this Chapter to the provisions of ‘this Chapter’ shall not necessarily apply to this Article. However, except as otherwise provided in this Article, the provisions of Article 1 are applicable and shall apply to and govern the administration of the Retirement System established hereby. Not in limitation of the foregoing, the provisions of G.S. 135-5(h), 135-5(n), 135-9, 135-10, 135-12 and 135-17 are specifically applicable to the Retirement System established hereby.

(b) The provisions of this Article shall be administered by the Board of Trustees of the Teachers’ and State Employees’ Retirement System.

“§ 135-103. *Definitions.*—The following words and phrases as used in this Article, unless a different meaning is plainly required by the context, shall have the following meanings:

- (1) ‘Accumulated contributions’ with respect to any member shall mean the sum of all the amounts deducted from the compensation of the member pursuant to G.S. 135-118 since he last became a member and credited to his account in the annuity savings fund, plus any amount standing to his credit pursuant to G.S. 135-117(c) as a result of a prior period of membership, plus any amounts credited to his account pursuant to G.S. 135-28.1(b) or G.S. 135-106(b), together with regular interest on all such amounts computed as provided in G.S. 135-7(b).
- (2) ‘Actuarial equivalent’ shall mean a benefit of equal value when computed upon the basis of such mortality tables as shall be adopted by the Board of Trustees, and regular interest.
- (3) ‘Beneficiary’ shall mean any person in receipt of a retirement allowance or other benefit as provided in this Article.
- (4) ‘Board of Trustees’ shall mean the Board of Trustees established by G.S. 135-6.
- (5) ‘Compensation’ shall mean all salaries and wages derived from public funds which are earned by a member of the Retirement System for his service as a justice or judge.
- (6) ‘Creditable service’ shall mean for any member the total of his prior service plus his membership service.
- (7) ‘Filing’ when used in reference to an application for retirement shall mean the receipt of an acceptable application on a form provided by the Retirement System.
- (8) ‘Final compensation’ shall mean for any member the annual equivalent of the rate of compensation most recently applicable to him.
- (9) ‘Judge’ shall mean any justice or judge of the General Court of Justice and the Administrative Officer of the Courts.
- (10) ‘Medical Board’ shall mean the board of physicians provided for in G.S. 135-6.
- (11) ‘Member’ shall mean any person included in the membership of the Retirement System as provided in this Article.
- (12) ‘Membership service’ shall mean service as a judge rendered while a

member of the Retirement System.

- (13) 'Previous system' shall mean, with respect to any member, the retirement benefit provisions of Article 6 and Article 8 of Chapter 7A of the General Statutes, to the extent that such article or articles were formerly applicable to the member, and in the case of judges of the district court division of the General Court of Justice, the Teachers' and State Employees' Retirement System.
- (14) 'Prior service' shall mean service rendered by a member, prior to his membership in the Retirement System, for which credit is allowable under G.S. 135-106.
- (15) 'Regular interest' shall mean interest compounded annually at such a rate as shall be determined by the Board of Trustees in accordance with G.S. 135-7(b).
- (16) 'Retirement' shall mean the withdrawal from active service with a retirement allowance granted under the provisions of this Chapter. In order for a member's retirement to become effective in any month, the member must render no service at any time during that month.
- (17) 'Retirement allowance' shall mean the periodic payments to which a beneficiary becomes entitled under the provisions of this Article.
- (18) 'Retirement System' shall mean the Uniform Judicial Retirement System of North Carolina, as established in this Article.
- (19) 'Year' as used in this Article shall mean the regular fiscal year beginning July 1 and ending June 30 in the following calendar year, unless otherwise defined by regulation of the Board of Trustees.

“§ 135-104. *Name and date of establishment.*—A Retirement System is hereby established and placed under the management of the Board of Trustees for the purpose of providing retirement allowances and other benefits under the provisions of this Article for justices and judges of the General Court of Justice of North Carolina, and their survivors. The Retirement System so created shall be established as of January 1, 1974.

The Retirement System shall have the power and privileges of a corporation and shall be known as the 'Uniform Judicial Retirement System of North Carolina', and by such name all of its business shall be transacted.

“§ 135-105. *Membership.*—(a) The membership of the Retirement System shall consist of:

- (i) all judges in office on January 1, 1974; and
- (ii) all persons who become judges or reenter service as judges after January 1, 1974.

(b) The membership of any person in the Retirement System shall cease upon:

- (i) the withdrawal of his accumulated contributions after he is no longer a judge, or
- (ii) his retirement under the provisions of the Retirement System, or
- (iii) his death.

“§ 135-106. *Creditable service.*—(a) Subject to such rules and regulations as the Board of Trustees shall adopt with regard to the verification of a member's prior service, the prior service of a member shall consist of his service rendered prior to January 1, 1974, as a justice of the Supreme Court, judge of the Court of Appeals, judge of the Superior Court, judge of the District Court Division of the General Court of Justice, or as Administrative Officer of the Courts.

(b) When membership ceases as a result of a member's withdrawal of his accumulated contributions, the prior service and previous membership service of the member shall no longer be considered to be creditable service; provided, however, that if a member whose creditable service has been cancelled in accordance with this subsection subsequently returns to membership for a period of five years, he may thereafter repay in a lump sum the amount withdrawn plus regular interest thereon from the date of withdrawal through the date of repayment and thereby increase his creditable service by the amount of creditable service lost when he withdrew his accumulated contributions.

“§ 135-107. *Service retirement.*—(a) Any member in service on or after January 1, 1974, who has attained his 50th birthday may retire upon written application to the Board of Trustees setting forth at what time, as of the first day of a calendar month, not less than 30 days nor more than 90 days subsequent to the execution of and the filing thereof, he desires to be retired.

(b) Any member who is a justice or judge of the Appellate Division of the General Court of Justice shall be automatically retired as of the first day of the calendar month coinciding with or next following the later of January 1, 1974, or his attainment of his 72nd birthday and each other member shall be automatically retired as of the first day of the calendar month coinciding with or next following the later of January 1, 1974, or his attainment of his 70th birthday; provided, however, that no judge who is a member on January 1, 1974, shall be forced to retire under the provisions of this subsection at an earlier date than the last day that he is permitted to remain in office under the provisions of G.S. 7A-4.20.

(c) Any member who terminates service on or after January 1, 1974, having accumulated five or more years of creditable service may retire under the provisions of subsection (a) above, provided that he shall not have withdrawn his accumulated contributions prior to the effective date of his retirement, and the requirement of subsection (a) that the member be in service shall not apply.

“§ 135-108. *Service retirement benefits.*—(a) Any member who retires under the provisions of subsection (a) or subsection (c) of G.S. 135-107 after he either has attained his 65th birthday or has completed 24 years or more of creditable service shall receive an annual retirement allowance, payable monthly, which shall commence on the effective date of his retirement and shall be continued on the first day of each month thereafter during his lifetime, the amount of which shall be computed as the sum of (i), (ii) and (iii) following, provided that in no event shall the annual allowance payable to any member be greater than an amount which, when added to the allowance, if any, to which he is entitled under the Teachers' and State Employees' Retirement System or the North Carolina Local Governmental Employees' Retirement System (prior in any case to any reduction for early retirement or for an optional mode of payment) would total three-fourths of his final compensation:

- (i) Four percent (4%) of his final compensation, multiplied by the number of years of his creditable service rendered as a justice of the Supreme Court or judge of the Court of Appeals;
- (ii) Three and one-half percent ($3\frac{1}{2}\%$) of his final compensation, multiplied by the number of years of his creditable service rendered as a judge of the Superior Court or as Administrative Officer of the Courts;
- (iii) Three percent (3%) of his final compensation, multiplied by the

number of years of his creditable service rendered as a judge of the District Court Division of the General Court of Justice.

(b) Any member who retires under the provisions of subsection (a) or subsection (c) of G.S. 135-107 before he either has attained his 65th birthday or has completed 24 years of creditable service shall receive an annual retirement allowance, payable monthly, which shall commence on the effective date of his retirement and shall be continued on the first day of each month thereafter during his lifetime, the amount of which shall be determined in the same manner and be subject to the same maximum limitation as provided for in subsection (a) above except that the allowance so computed shall be reduced by one quarter of one percent ($1/4$ of 1%) thereof for each month by which the member's retirement date precedes the first day of the month coincident with or next following the earlier of

(i) the member's 65th birthday, or

(ii) the date the member would have completed 24 years of creditable service if he had been in service as a judge from his retirement date until such date. For the sole purpose of determining whether a member has completed the required 24 years of creditable service referred to in this subsection (b) or the date on which he would have completed such period of creditable service if he had remained in service as a judge, in the case of a member of the Teachers' and State Employees' Retirement System who became a member of this Retirement System under circumstances described in G.S. 135-28.1, and who at the time of his retirement hereunder is in service and has retained his membership in the Teachers' and State Employees' Retirement System as provided for in G.S. 135-28.1, his creditable service shall be taken as the sum of his creditable service hereunder plus the amount of creditable service remaining to his credit in such other system as provided for in G.S. 135-28.1.

(c) The foregoing subsections of this section to the contrary notwithstanding, in no event will the retirement allowance initially payable upon the retirement of any member who was a member of a previous system immediately prior to January 1, 1974, prior to any reduction of such allowance in accordance with G.S. 135-111, be less than the retirement allowance to which he would have been entitled under the terms of such previous system if this Article had not been enacted.

(d) Commencing with the payment for the month of January 1974, the retirement allowance of each retired member of a previous system who was in receipt of a retirement allowance thereunder as of January 1, 1974, shall be paid from the assets of the Retirement System in the same amount as would have been applicable for January 1974, if this Article had not been enacted.

“§ 135-109. *Disability retirement.*—Upon application by or on behalf of the member, any member in service who has completed five or more years of creditable service and who has not attained his 65th birthday may be retired by the Board of Trustees, on the first day of any calendar month, not less than 30 and not more than 90 days next following the date of filing such application, on a disability retirement allowance; provided, that the medical board, after a medical examination of such member, shall certify that such member is mentally or physically incapacitated for the further performance of duty, that such incapacity was incurred at the time of active employment and has been

continuous thereafter, that such incapacity is likely to be permanent, and that such member should be retired; and, provided further, that if a member is removed by the Supreme Court for mental or physical incapacity under the provisions of G.S. 7A-376, no action is required by the medical board under this section.

“§ 135-110. *Disability retirement benefits.*—(a) Upon retirement for disability in accordance with G.S. 135-109, a member shall receive a disability retirement allowance computed and payable as provided for service retirement in G.S. 135-108(a) except that the member's creditable service shall be taken as the creditable service he would have completed at his 65th birthday if he had continued in service to such birthday as a judge in the same Division of the General Court of Justice in which he was serving on his disability retirement date.

(b) Once each year during the first five years following retirement of a member on a disability retirement allowance, and once in every three-year period thereafter, the Board of Trustees may, and upon his application shall, require any disability beneficiary who has not yet attained his 60th birthday to undergo a medical examination, such examination to be made at the place of residence of the beneficiary or other place mutually agreed upon, by a physician or physicians designated by the Board of Trustees. Should any disability beneficiary who has not yet attained his 60th birthday refuse to submit to at least one medical examination in any such year by a physician or physicians designated by the Board of Trustees, his allowance may be discontinued until his withdrawal of such refusal, and should his refusal continue for one year, it shall be assumed that he is no longer disabled.

(c) Should the medical board certify to the Board of Trustees that a disability beneficiary prior to his 65th birthday has recovered to the extent that he would not satisfy the requirements for disability retirement if he were an active member of the Retirement System, or if his disability shall be assumed to have terminated in accordance with subsection (b) above, his disability retirement allowance shall thereupon cease, he shall be restored as a member of the Retirement System, and the period during which he was in receipt of a disability retirement allowance shall not be included in his creditable service.

“§ 135-111. *Election of optional allowance.*—Any member who retires under the provisions of this Article shall have the right to elect to have his allowance payable under any one of the optional forms provided for in G.S. 135-5(g), subject to the conditions therein contained, in lieu of the allowance that would otherwise be payable.

“§ 135-112. *Return of accumulated contributions.*—(a) Should a member cease to be a judge otherwise than by death or retirement under the provisions of this Article, he shall, upon submission of an application, be paid, not earlier than 60 days from receipt in the Raleigh offices of the Board of Trustees of an acceptable application on a form provided by the Retirement System, the amount of his accumulated contributions, provided that he has not in the meantime returned to service as a judge. Upon payment of such accumulated contributions his membership in the Retirement System shall cease and, if he thereafter again becomes a member, no credit shall be allowed for any service previously rendered, except as otherwise provided in G.S. 135-106(b). Any such payment of a member's accumulated contributions shall be in full and complete

discharge of any rights in or to any benefits otherwise payable under this Article.

(b) Any other provision of this Article to the contrary notwithstanding, there shall be deducted from any amount otherwise payable hereunder any amount due any agency or subdivision of the State by the member by reason of any outstanding overpayment of salary or by reason of the embezzlement of fees collected by the member for any agency or subdivision of the State; provided that, notwithstanding any other provisions of this Article, even if the member fails to demand the return of his accumulated contributions within 90 days from the day he ceases to be a judge, any amount due such agency or subdivision by reason of any outstanding overpayment of salary or embezzlement of fees shall be paid to such agency or subdivision by the Retirement System upon demand; and provided further, that such agency or subdivision shall have notified the director of any amount so due and that the Retirement System shall have no liability for amounts so deducted and transmitted to such agency or subdivision nor for any failure by the Retirement System for any reason to make such deductions.

“§ 135-113. *Benefits on death before retirement.*—(a) Upon receipt of proof, satisfactory to the Board of Trustees, of the death of a member in service, there shall be paid in a lump sum to such person as the member shall have nominated by written designation duly acknowledged and filed with the Board of Trustees, if such person is living at the time of the member's death, otherwise to the member's legal representatives, a death benefit equal to the sum of

(i) the member's accumulated contributions, plus

(ii) the member's final compensation;

provided, however, that if the member has attained his 50th birthday at his date of death, and if the designated recipient of the death benefits is the member's spouse who survives him, and if the spouse so elects, then the lump sum death benefit provided for herein shall consist only of a payment equal to the member's final compensation and there shall be paid to the surviving spouse an annual retirement allowance, payable monthly, which shall commence on the first day of the calendar month coinciding with or next following the death of the member and shall be continued on the first day of each month thereafter until the remarriage or death of the spouse. The amount of any such retirement allowance shall be equal to one-half of the amount of the retirement allowance to which the member would have been entitled had he retired under the provisions of G.S. 135-107(a) on the first day of the calendar month coinciding with or next following his date of death, reduced by two percent (2%) thereof for each full year, if any, by which the age of the member at his date of death exceeds that of his spouse. If the retirement allowance to the spouse shall terminate on the remarriage or death of the spouse before the total of the retirement allowance payments made equals the amount of the member's accumulated contributions at date of death, the excess of such accumulated contributions over the total of the retirement allowances paid to the spouse shall be paid in a lump sum to such person as the member shall have nominated by written designation duly acknowledged and filed with the Board of Trustees, if such person is living at the time such payment falls due, otherwise to the former member's legal representatives.

(b) There shall be paid to the surviving unremarried spouse of any former judge who died in service prior to January 1, 1974, and after his 50th birthday

an annual retirement allowance which shall commence on January 1, 1974, and shall be continued on the first day of each month thereafter until the remarriage or death of the spouse. The amount of any such retirement allowance shall be computed in accordance with the provisions of subsection (a) above as if the provisions of this Article had been in effect on the date of death of the former judge, and the final compensation of such former judge had been equal to the rate of annual compensation in effect on December 31, 1973, for the office held by the former judge at the time of his death.

(c) Upon receipt of proof, satisfactory to the Board of Trustees, of the death of a member not in service, there shall be paid in a lump sum to such person as the member shall have nominated by written designation duly acknowledged and filed with the Board of Trustees, if such person is living at the time of the member's death, otherwise to the member's legal representatives, a death benefit equal to the member's accumulated contributions.

“§ 135-114. *Benefits on death after retirement.*—(a) In the event of the death of a former member while in receipt of a retirement allowance pursuant to his retirement under the provisions of G.S. 135-107, or after a former member's 65th birthday while in receipt of a retirement allowance pursuant to his retirement under the provisions of G.S. 135-109, there shall be paid to the former member's surviving spouse, if any, an annual retirement allowance, payable monthly, which shall commence on the first day of the calendar month next following the date of death of the former member and shall be continued on the first day of each month thereafter until the remarriage or death of the spouse. The amount of any such allowance shall be equal to one-half of the allowance that was payable to the former member for the month immediately prior to his month of death, or which would have been so payable had an optional mode of payment not been elected under the provisions of G.S. 135-111, reduced by two percent (2%) thereof for each full year, if any, by which the age of the former member at date of death exceeds that of his spouse.

(b) In the event of the death of a former member prior to his 65th birthday while in receipt of a retirement allowance pursuant to his retirement under the provisions G.S. 135-109, there shall be paid to the former member's surviving spouse, if any, an annual retirement allowance, payable monthly, which shall commence on the first day of the calendar month next following the date of death of the former member and shall be continued on the first day of each month thereafter until the remarriage or death of the spouse. The amount of any such allowance shall be equal to one-half of the allowance to which the former member would have been entitled under the provisions of G.S. 135-108 if he had remained in service from his disability retirement date to his date of death with no change in his final compensation or status and had then retired, reduced by two percent (2%) thereof for each full year, if any, by which the age of the former member at date of death exceeds that of his spouse.

(c) In the event of the death of a former member while in receipt of a retirement allowance under the provisions of G.S. 135-108 or G.S. 135-110 (but not G.S. 135-111), if such former member is not survived by a spouse to whom a retirement allowance is payable under the provisions of subsection (a) or subsection (b) above; there shall be paid to such person as the member shall have nominated by written designation duly acknowledged and filed with the Board of Trustees, if such person is living at the time of the member's death, otherwise to the member's legal representatives, a death benefit equal to the

excess, if any, of the accumulated contributions of the member at his date of retirement over the total of the retirement allowances paid to him prior to his death.

(d) In the event that a retirement allowance becomes payable to the spouse of a former member under the provisions of subsection (a) or subsection (b) above, provided that the member's retirement allowance had not been paid under one of the optional modes of payment under G.S. 135-111, and such retirement allowance to the spouse shall terminate on the remarriage or death of the spouse before the total of the retirement allowances paid to the former member and his spouse combined equals the amount of the member's accumulated contributions at his date of retirement, the excess of such accumulated contributions over the total of the retirement allowances paid to the former member and his spouse combined shall be paid in a lump sum to such person as the member shall have nominated by written designation duly acknowledged and filed with the Board of Trustees, if such person is living at the time such payment falls due, otherwise to the former member's legal representatives.

(e) In the event of the death of a retired former judge while in receipt of a retirement allowance under the provisions of G.S. 135-108(d), there shall be paid to the former judge's surviving spouse, if any, an annual retirement allowance payable monthly, which shall commence on the first day of the calendar month next following the date of death of the former judge and shall be continued on the first day of each month thereafter until the remarriage or death of the spouse. The amount of any such allowance shall be equal to one-half of the allowance that was payable to the former judge for the month immediately prior to his month of death, reduced by two percent (2%) thereof for each full year, if any, by which the age of the former judge at date of death exceeds that of his spouse.

(f) There shall be paid to the surviving unremarried spouse of any former judge who died prior to January 1, 1974, while in receipt of a retirement allowance under the provisions of a previous system, a retirement allowance which shall commence on January 1, 1974, and shall be continued on the first day of each month thereafter until the remarriage or death of the spouse. The amount of any such retirement allowance shall be equal to one-half of the allowance that would have been payable to the former judge for the month of December 1973, if the previous system had been in effect at his date of retirement and if he had survived to January 1, 1974, reduced by two percent (2%) thereof for each full year, if any, by which the age of the former judge at date of death exceeded that of his spouse.

"§ 135-115. *Post-retirement increases in allowances.*—Commencing with the post-retirement adjustment effective July 1, 1974, all retirement allowances payable under the provisions of this Article shall be adjusted annually in accordance with the provisions of G.S. 135-5(o).

"§ 135-116. *Administration; management of funds.*—The provisions of G.S. 135-6, 135-7, 135-7.1 and 135-7.2 shall be applicable to the administration of this Retirement System and to the assets thereof.

The assets of this Retirement System may be commingled for investment purposes with those of the Teachers' and State Employees' Retirement System, but the records of the Board of Trustees shall at all times show the relative interest of each system in the commingled funds.

“§ 135-117. *Assets of Retirement System.*—(a) All of the assets of the Retirement System shall be credited according to the purpose for which they are held to one of two funds, namely, the annuity savings fund and the pension accumulation fund.

(b) The annuity savings fund shall be the fund to which all members' contributions, and regular interest allowances thereon as provided for in G.S. 135-7(b), shall be credited. From this fund shall be paid the accumulated contributions of a member in accordance with G.S. 135-112, or G.S. 135-113.

(c) Upon the retirement of a member, his accumulated contributions shall be transferred from the annuity savings fund to the pension accumulation fund. In the event that a retired former member should subsequently again become a member of the Retirement System as provided for in G.S. 135-110(c) or G.S. 135-121, any excess of his accumulated contributions at his date of retirement over the sum of the retirement allowance payments received by him since his date of retirement shall be transferred from the pension accumulation fund to the annuity savings fund and shall be credited to his individual account in the annuity savings fund.

(d) The pension accumulation fund shall be the fund in which shall be accumulated contributions by the State and amounts transferred from the annuity savings fund in accordance with subsection (c) above, and to which all income from the invested assets of the Retirement System shall be credited. From this fund shall be paid retirement allowances and any other benefits provided for under this Article except payments of accumulated contributions as provided in subsection (b) above.

(e) The regular interest allowance on the members' accumulated contributions provided for in G.S. 135-7(b) shall be transferred each year from the pension accumulation fund to the annuity savings fund.

“§ 135-118. *Contributions by the members.*—Each member shall contribute by payroll deduction for each pay period for which he receives compensation six percent (6%) of his compensation for such period.

“§ 135-119. *Contributions by the State.*—(a) The State shall contribute annually an amount equal to the sum of the 'normal contribution' and the 'accrued liability contribution'.

(b) The normal contribution for any period shall be determined as a percentage, equal to the normal contribution rate, of the total compensation of the members for such period. The normal contribution rate shall be determined as the percentage represented by the ratio of (i) the annual normal cost to provide the benefits of the Retirement System, computed in accordance with recognized actuarial principles on the basis of methods and assumptions approved by the Board of Trustees, in excess of the part thereof provided by the members' contributions, to (ii) the total annual compensation of the members of the Retirement System.

(c) The accrued liability contribution for any period shall be determined as a percentage, equal to the accrued liability contribution rate, of the total compensation of the members for such period. The accrued liability contribution rate shall be determined as the percentage represented by the ratio of (i) the level annual contribution necessary to amortize the unfunded accrued liability over a period of 40 years, computed in accordance with recognized actuarial principles on the basis of methods and assumptions approved by the

Board of Trustees, to (ii) the total annual compensation of the members of the Retirement System.

(d) The unfunded accrued liability as of any date shall be determined, in accordance with recognized actuarial principles on the basis of methods and assumptions approved by the Board of Trustees, as the excess of (i) the then present value of the benefits to be provided under the Retirement System in the future over (ii) the sum of the assets of the Retirement System then currently on hand in the annuity savings fund and the pension accumulation fund, plus the then present value of the stipulated contributions to be made in the future by the members, plus the then present value of the normal contributions expected to be made in the future by the State.

(e) The normal contribution rate and the accrued liability contribution rate shall be determined after each annual valuation of the Retirement System and shall remain in effect until a new valuation is made.

(f) The annual contributions by the State for any year shall be at least sufficient, when combined with the amount held in the pension accumulation fund at the start of the year, to provide the retirement allowances and other benefits payable out of the fund during the year then current.

“§ 135-120. *Transfer of members to another system.*—(a) Any member whose service as a judge is terminated other than by retirement or death and, who, while still a member of this Retirement System becomes a member of either the Teachers' and State Employees' Retirement System or the North Carolina Local Governmental Employees' Retirement System, may elect to retain his membership in this Retirement System by not withdrawing his accumulated contributions hereunder. Any such member shall retain all the rights, credits and benefits obtaining to him under this Retirement System at the time of such termination of service while he is a member of such other system and does not withdraw his contributions hereunder.

(b) Any member who becomes eligible for benefits under more than one system may file application therefor with each retirement system to the end that each retirement system shall pay appropriate benefits without transfer of funds between the systems.

(c) The Board of Trustees shall effect such rules as it may deem necessary to administer the provisions of the preceding subsections of this section and to prevent any duplication of service credits or benefits that might otherwise occur.

“§ 135-121. *Return to membership of retired former member.*—(a) In the event that a retired former member should at any time return to service as a justice or judge, his retirement allowance shall thereupon cease and he shall be restored as a member of the Retirement System.

(b) In the computation of the amount of any benefits to which he may subsequently become entitled under any of the provisions of this Article, his creditable service shall be taken as the sum of the creditable service rendered by him prior to the date of his previous retirement plus the period of membership service rendered by him subsequent to his restoration to membership, except as otherwise provided in G.S. 135-110(c).”

Sec. 2. Article 1 of General Statutes Chapter 135 is amended as follows:

(a) The first sentence of G.S. 135-1(10) is amended to read:

“Employee' shall mean all fulltime employees, agents or officers of the State of North Carolina or any of its departments, bureaus and institutions other

than educational, whether such employees are elected, appointed or employed: Provided that the term 'employee' shall not include any person who is a member of the Uniform Judicial Retirement System, any member or officer of the General Assembly or any part-time or temporary employee."

(b) A new section, G.S. 135-28.1, is inserted to read as follows:

"§ 135-28.1. *Transfer of members to employment covered by the Uniform Judicial Retirement System.*—(a) Any member whose service as a teacher or State employee is terminated other than by retirement or death and, who, while still a member of this Retirement System, becomes a judge participating in the Uniform Judicial Retirement System, may elect to retain his membership in this Retirement System by not withdrawing his accumulated contributions hereunder. Any such member shall retain all the rights, credits and benefits obtaining to him under this Retirement System at the time of such termination of service hereunder while he is a member of the other system and does not withdraw his contributions hereunder.

(b) The provisions of the preceding subsection to the contrary notwithstanding, with respect to each judge or former judge of the District Court Division of the General Court of Justice who was a member of this Retirement System immediately prior to January 1, 1974, and who becomes a member of the Uniform Judicial Retirement System on or after January 1, 1974, upon his commencement of membership in the other system there shall be paid in a lump sum to his account in the annuity savings fund of the other system the amount of his accumulated contributions under this System that are attributable to contributions made by him hereunder while a judge of said District Court Division. Upon such payment, the member's accumulated contributions hereunder shall be reduced by the amount of such payment and his period of creditable membership service shall be reduced by the period of service during which such repaid contributions were originally made.

Any member for whom the payment of his accumulated contributions as herein provided reduces the balance of his account in the annuity savings fund to zero and cancels his entire period of creditable service shall no longer be a member of this Retirement System.

In the case of any member who retains his membership in this Retirement System after the payment hereinabove provided and who subsequently becomes eligible for retirement benefits under this Retirement System or whose death results in benefit payments to another beneficiary, the average final compensation used in the computation of the amount of any such benefits shall be computed as of the date of commencement of his membership in the other system on the same basis as if his retirement or death had occurred as of such date of commencement. Moreover, for the sole purpose of increasing his creditable service hereunder in order to meet any applicable service requirements for benefits hereunder, any such member shall be granted membership service credits under this Retirement System on account of (i) the period of membership service cancelled under the first paragraph of this subsection and (ii) the period of his membership in the other system so long as he remains a member hereunder and, if he is a member in service under the other system, he shall be deemed to be a member in service under this Retirement System if so required for any benefit hereunder.

(c) Any member who becomes eligible for benefits under both this Retirement System and the Uniform Judicial Retirement System may file

application therefor with each retirement system to the end that each retirement system shall pay appropriate benefits without transfer of funds between the systems except as otherwise provided in subsection(b) above.

(d) The Board of Trustees shall effect such rules as it may deem necessary to administer the provisions of the preceding subsections of this section and to prevent any duplication of service credits or benefits that might otherwise occur."

Sec. 3. G.S. 7A-39.3(a) is amended by inserting, in line 2, before the word "are", the words "or the Uniform Judicial Retirement Act".

Sec. 4. G.S. 7A-52(a) is amended by inserting, in line 1, before the word "are", the words "or the Uniform Judicial Retirement Act".

Sec. 5. Chapter 7A of the General Statutes is hereby amended by inserting in Article 6 thereof a new section, G.S. 7A-39.12, to read as follows:

"§ 7A-39.12. *Applicability of G.S. 7A-39.2 and 7A-39.11.*—The provisions of G.S. 7A-39.2 and G.S. 7A-39.11 shall apply only to justices and judges who entered into office prior to January 1, 1974. The extent of such application is specified in Chapter 135, Article 4 (Uniform Judicial Retirement Act)."

Sec. 6. Chapter 7A of the General Statutes is hereby amended by inserting in Article 8 thereof a new section, G.S. 7A-56 to read as follows:

"§ 7A-56. *Applicability of G.S. 7A-51 and 7A-55.*—The provisions of G.S. 7A-51 and G.S. 7A-55 shall apply only to judges (and any Administrative Officer of the Courts) who entered office prior to January 1, 1974. The extent of an application is specified in Chapter 135, Article 4 (Uniform Judicial Retirement Act)."

Sec. 7. This act shall become effective January 1, 1974.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

H. B. 715

CHAPTER 641

AN ACT TO AUTHORIZE MUNICIPALITIES TO PARTICIPATE IN COMMUNITY ACTION AND MANPOWER PROGRAMS.

The General Assembly of North Carolina enacts:

Section 1. The first paragraph of G.S. 160A-492 and the caption thereof is amended by inserting after the words "human relations" wherever they appear therein the words and punctuation ", community action and manpower development."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

H. B. 744

CHAPTER 642

AN ACT TO AMEND G.S. 57-1 TO INCLUDE CHIROPRACTORS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 57-1 is hereby amended by inserting in the sixth and ninth lines of the third paragraph thereof immediately following the word "optometrist" in each line, the words "a duly licensed chiropractor".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

H. B. 903

CHAPTER 643

AN ACT TO AMEND G. S. 1-75.10 TO PROVIDE A METHOD OF PROOF OF SERVICE OF PROCESS BY REGISTERED MAIL.

The General Assembly of North Carolina enacts:

Section 1. G. S. 1-75.10 is hereby amended by inserting on line 23 a new subdivision to read as follows:

"(3) *Service by Registered Mail.*—In the case of service by registered mail, by affidavit of the serving party showing the circumstances warranting the use of service by registered mail and averring:

a. That a copy of the summons and complaint was deposited in the post office for mailing by registered mail, return receipt requested,

b. That it was in fact received as evidenced by the attached registry receipt or other evidence satisfactory to the court of delivery to the addressee, and

c. That the genuine receipt or other evidence of delivery is attached."

Sec. 2. G. S. 1-75.10 is hereby further amended by redesignating former subdivision (3) as subdivision (4).

Sec. 3. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 4. This act shall become effective on October 1, 1973.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

H. B. 934

CHAPTER 644

AN ACT TO AUTHORIZE PAYMENTS FROM THE STATE FUND FOR MEDICAL ASSISTANCE TO INTERMEDIATE CARE FACILITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 108-60 as the same appears in the 1971 Cumulative Supplement to Volume 3A of the General Statutes is hereby amended to add the words "intermediate care facilities," immediately following the words "only to" and immediately before the word "hospitals" in line 7 thereof, and by striking the words "other personnel" immediately following the words "optometrist or" and immediately before the word "authorized" in line 9 thereof and substituting therefor the words "other providers of services".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

H. B. 935 CHAPTER 645

AN ACT TO PRESCRIBE LIMITATIONS ON ELIGIBILITY FOR STATE FOSTER HOME FUND BENEFITS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 108-66(b) as it presently appears in the 1971 Cumulative Supplement to Volume 3A of the General Statutes is renumbered as G.S. 108-66(c).

Sec. 2. G.S. 108-66 as the same appears in the 1971 Cumulative Supplement to Volume 3A of the General Statutes is amended by adding a new subsection (b) as follows:

"(b) No benefits provided by this section shall be granted to any needy individual who has passed his eighteenth birthday unless he is less than 21 years of age and is regularly attending and successfully pursuing a course of study leading to a high school diploma or its equivalent; a course of study at the college level; or a course of vocational or technical training designed to fit him for gainful employment."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

H. B. 970 CHAPTER 646

AN ACT TO AMEND G.S. 7A-41 TO PROVIDE FOR ADDITIONAL ASSISTANT SOLICITORS IN VARIOUS JUDICIAL DISTRICTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-41 is amended to increase the number of assistant solicitors for the third, fourth, fifth, tenth, twelfth, thirteenth, sixteenth, eighteenth, twentieth, twenty-first, twenty-second, and twenty-sixth judicial districts, so that the quota of assistant solicitors for these districts in the table in G.S. 7A-41 will read as follows:

<u>Judicial District</u>	<u>No. of Full -Time Asst. Solicitor</u>
3	4
4	4
5	4
10	8
12	7
13	2
16	3
18	8
20	4
21	6
22	4
26	10

Sec. 2. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

H. B. 1097

CHAPTER 647

AN ACT TO REWRITE G.S. 115-157 TO PROVIDE 10 MONTHS EMPLOYMENT FOR ALL REGULAR STATE ALLOTTED TEACHERS; 12 MONTHS EMPLOYMENT FOR ALL SUPERVISORS AND CLASSIFIED PRINCIPALS; 10 MONTHS EMPLOYMENT FOR JANITORS AND MAIDS; AND TO APPROPRIATE FUNDS TO PROVIDE FOR THESE PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115-157 is hereby rewritten to read as follows:

“§ 115-157. *Pay of school officials and other employees.*—School officials and other employees shall be paid promptly when their salaries are due provided the legal requirements for their employment and service have been met. All school officials and other employees employed by any administrative unit or school district, who are to be paid from local funds, shall be paid promptly as provided by law and as State allotted school officials and other employees are paid.

Public school employees paid from State funds shall be paid as follows:

(a) Academic teachers. Regular State allotted teachers shall be employed for a period of 10 calendar months and shall be paid monthly at the end of each calendar month of service. Included within the 10 calendar months employment shall be 1.25 days of annual vacation leave for each month of the 10 months service which shall be designated by each county and city board of education at a time when students are not scheduled to be in regular attendance. Included within the 10 calendar months employment each county and city board of education shall designate the same or an equivalent number of legal holidays occurring within the period of employment for academic teachers as those designated by the State Personnel Council for State Employees. Within policy adopted by the State Board of Education, each county and city board of education shall develop rules and regulations designating what additional portion of the 10 calendar months not devoted to classroom teaching, holidays, or annual leave, shall apply to service rendered before the opening of the school term, during the school term, and after the school term and to fix and regulate the duties of State allotted teachers during said period, but in no event shall the total number of work days exceed 200 days. County and City Boards of Education shall consult with the employed public school personnel in the development of the 10 calendar months schedule.

(b) Occupational education teachers. State allotted man months of service to county and city boards of education as provided by the State Board of Education shall be used for the employment of teachers of occupational education for a term of employment as determined by the county and city boards of education and teachers so employed shall be paid on a calendar month basis at the end of each calendar month of service for the term of their employment. Included within their term of employment shall be the same rate of annual vacation leave and legal holidays provided under the same conditions as set out in paragraph (a) above, but in no event shall the total work days for a 10-month employee exceed 200 days in a 10 month schedule and the work week shall constitute five days for all occupational teachers regardless of the employment period.

(c) Supervisors and classified principals. State allotted supervisors and classified principals shall be employed for a term of twelve calendar months and shall be paid monthly at the end of each calendar month of service for the term

of their employment. Included within their term of employment shall be provided the same rate of annual vacation leave and legal holidays as set out in paragraph (a) above, said annual leave to be taken as determined by each county and city board of education.

(d) Superintendents and other employees on an annual basis. The salaries of superintendents and others employed on an annual basis shall be paid monthly on the basis of each calendar month of service. Included within their term of employment shall be provided the same rate of annual vacation leave and legal holidays as set out in paragraph (a) above, said annual leave to be taken as determined by each county and city board of education.

(e) Other school Employees. Other school employees paid on an hourly or other basis shall be paid at a time as determined by each county and city board of education and expenditures from State funds shall be within allocations made by the State Board of Education and in accordance with rules and regulations approved by the State Board of Education concerning allocations of State funds. Included within the term of employment shall be provided for full-time employees the same rate of annual vacation leave and legal holidays as set out in paragraph (a) above and said vacation leave shall be taken under policies determined by each county and city board of education.

(f) The provisions for annual vacation leave and holidays referred to in this section shall apply only to such persons employed by the county and city boards of education during the days designated by each county and city board of education as vacation days. Vacation days shall not be used for extending the term of employment of individuals and shall not be cumulative from one fiscal year to another fiscal year.

(g) Each county and city board of education shall sustain any loss by reason of an over payment to any school official or other employee paid from State funds.

(h) All of the foregoing provisions of this section shall be subject to the requirement that at least fifty dollars (\$50.00) or other minimum amount required by Federal Social Security Laws, of the compensation of each school employee covered by the Teachers' and State Employees' Retirement System or otherwise eligible for Social Security coverage, shall be paid in each of the four quarters of the calendar year."

Sec. 2. Implementation of the provisions of Section 1 of this act is dependent upon the availability of funds.

Sec. 3. G.S. 115-142.1 is hereby repealed.

Sec. 4. G.S. 115-142.2 is hereby repealed.

Sec. 5. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

S. B. 21

CHAPTER 648

AN ACT TO AMEND G.S. 14-155 RELATING TO UNAUTHORIZED CONNECTIONS WITH CABLE TELEVISION LINES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-155 is hereby rewritten to read:

"G.S. 14-155. Unauthorized connections with telephone, telegraph and cable television wires. It shall be unlawful for any person to tap or make any connection with any wire or apparatus of any telephone, telegraph or cable television company operating in this State, except such connection as may be authorized by the person or corporation operating such wire or apparatus. Any person violating this section shall, upon conviction, be fined not more than ten dollars (\$10.00) or imprisoned not more than ten days (10) for each offense. Each day's continuance of such unlawful connection shall be a separate offense. No connection approved by the Federal Communications Commission or the North Carolina Utilities Commission shall be a violation of this Section."

Sec. 2. This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

S. B. 321

CHAPTER 649

AN ACT TO CONTINUE VALIDITY OF A MINOR'S EMPLOYMENT CERTIFICATE UPON CHANGE OF EMPLOYMENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 110-9 as the same appears in Volume 3A of the General Statutes is hereby amended and rewritten to read:

"§ 110-9. *Employment certificate required.*—Before any minor shall be employed, permitted or allowed to work in, about or in connection with any gainful occupation, such minor shall procure and keep in his possession at all times while pursuing such employment an employment certificate in his name and issued as hereinafter prescribed. In case of a minor engaged in street trade where the relationship of employer and employee does not exist between such minor and the supplier of the merchandise which the minor sells, the parent or guardian of such minor shall be deemed the employer of such minor and the minor shall be required to procure and keep in his possession at all times while pursuing this employment the employment certificate herein required."

Sec. 2. The last four lines of G.S. 110-12 as the same appears in Volume 3A of the General Statutes are hereby amended and rewritten to read:

"The employment certificate shall be delivered to the minor for whom it is issued and this certificate shall be valid for the employment described in the promise of employment submitted in accordance with subdivision (1) of this section and for any subsequent employment of the minor. Provided: That the provisions of this act shall not apply to the hazardous occupations prohibited for minors in G.S. 110-6 and G.S. 110-7 of the General Statutes of North Carolina, and the provisions of this act shall not apply to the hazardous occupations as set forth in Child Labor Bulletin No. 101, promulgated under the United States Department of Labor's Bureau of Labor Standards as authorized by Chapter 8 of Title 29 of the United States Code, known as the 'Fair Labor Standards Act', as amended."

Sec. 3. G.S. 110-15 as the same appears in Volume 3A of the General Statutes is hereby amended and rewritten to read:

"§ 110-15. *Duties of Employee in regard to employment certificate.*—Every employee receiving an employment certificate shall, after accepting employment and on the first day of employment, surrender his employment certificate to his employer for the duration of his employment, for the purpose of making the employment certificate readily accessible to any certificate-issuing officer, attendance officer, inspector, or other person authorized to enforce this Article. Upon termination of employment, the employer shall immediately return the employment certificate to the minor."

Sec. 4. G.S. 110-19 as the same appears in the 1971 Cumulative Supplement to Volume 3A of the General Statutes is amended by striking out the words "on file by the employer" following the word "kept" and before the word "and" on lines 7 and 8 thereof substituting the words "in the possession of the employee" therefor.

Sec. 5. This act shall become effective on October 1, 1973.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

S. B. 337

CHAPTER 650

AN ACT TO PROHIBIT THE WITHHOLDING OF FUNDS FROM LOCAL MENTAL HEALTH UNITS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 122 of the General Statutes is hereby amended by adding a new section to be designated G.S. 122-35.23 to read as follows:

"§ 122-35.23. *Withholding of funds prohibited.*—No funds otherwise available for any county, municipal, or other local mental health department shall be withheld or diminished because of failure or refusal of such local mental health department to join an area or regional mental health district."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

S. B. 807

CHAPTER 651

AN ACT TO PROVIDE FOR VOLUNTARY ANNEXATION BY THE TOWN OF CAROLINA BEACH OF AREAS, TERRITORIES, OR SUBDIVISIONS NOT CONTIGUOUS TO THE MUNICIPAL BOUNDARIES OF THE TOWN OF CAROLINA BEACH.

Whereas, Article 36 of Chapter 160 of the General Statutes of North Carolina contains no provision for the annexing of areas, territories or subdivisions not contiguous to the municipal boundaries of the Town of Carolina Beach; and

Whereas, it would be in the interest of the public health, safety, and welfare of the inhabitants of said town and would permit a more orderly growth of the municipal boundaries of said city to allow the annexation of noncontiguous areas, territories or subdivisions by petition of the property owners who desire that their property be annexed; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. That the owner or owners of any area, territory or subdivision within the boundaries of New Hanover County but not within the boundaries or extraterritorial jurisdiction of any other municipality, whose property is not contiguous to the municipal boundaries of the Town of Carolina Beach, may, by petition directed to the town council of the Town of Carolina Beach, request that the property described in the petition be annexed and made a part of the Town of Carolina Beach as hereinafter set out; provided any property annexed herein provided must be located at the closest point not more than three miles from the Town of Carolina Beach municipal limits.

Sec. 2. That said petition shall be directed to the town council of the Town of Carolina Beach and shall contain:

(1) The names of the owners of the real property for which a request to annex is made.

(2) A description of the area to be annexed by metes and bounds.

(3) The signatures of all property owners of the area, territory or subdivision requesting annexation.

In the case of annexing a subdivision under this act, the petition must be signed by all owners of property within the subdivision, provided nothing herein shall be construed to authorize the annexation of a portion of a subdivision.

Upon receipt of the petition, the town council of the Town of Carolina Beach shall cause the clerk of the town to investigate the sufficiency thereof and to certify the results of his investigation.

Upon receipt of the certification and petition, the town council shall fix dates for two public hearings on the question of annexation and shall cause notice of the public hearings to be published twice in a newspaper having general circulation in the town at least 10 days prior to the date of the first public hearing, and published in like manner preceding the second public hearing. The second public hearing shall be held at least 20 days after the first public hearing. At such public hearings, all residents of New Hanover County opposing or favoring the annexation or alleging an error in the petition shall be given an opportunity to be heard. The town council shall then determine whether the petition meets the requirements of this act.

Upon a further finding and determination by the town council that: (1) The public health, safety and welfare of the inhabitants of the Town of Carolina Beach, as well as those of the area, territory or subdivision requesting such annexation, will best be served by such annexation, and (2) The Town of Carolina Beach will be able to provide the same services to the annexed area, territory or subdivision in the same manner in which other areas within the municipal boundaries of said city are served, the town council of the Town of Carolina Beach may adopt an ordinance annexing that area described in the petition; provided that the ordinance annexing the area, territory or subdivision shall be passed at each meeting of the town council at which a public hearing is held as hereinbefore provided. From and after the effective date of said ordinance, which date shall not be less than 90 days from and after the final passage of said ordinance, the area, territory or subdivision and its citizens shall be subject to all debts, laws, ordinances and regulations in force in said Town of Carolina Beach and shall be entitled to the same benefits and privileges of other parts of said town. The newly annexed area, territory or subdivision shall be subject to town taxes for the fiscal year following the effective date of annexation.

Sec. 3. The town council of the Town of Carolina Beach may make said annexation contingent on such conditions as it may desire in order to insure that the area, territory or subdivision proposed to be annexed will not receive preferential treatment.

Sec. 4. The town council, in its discretion, may charge in any noncontiguous area, territory or subdivision annexed water or sewer rates in excess of those charged within the municipal limits and from time to time the council shall review the expenses related to any noncontiguous area to determine that said expenses are not in excess of taxes and revenue derived therefrom.

Sec. 5. Any area, territory or subdivision annexed pursuant to this act shall cease to be noncontiguous for all intents and purposes when and in the event said area shall touch the municipal limits of the Town of Carolina Beach as a result of the extension of the boundaries of said town pursuant to law.

Sec. 6. Any area, territory or subdivision annexed pursuant to this act shall not be included in that area of the municipal boundaries used for determining any extraterritorial jurisdiction of the Town of Carolina Beach and further shall not be considered within the municipal boundaries for the purposes of defining an area as contiguous to the city limits within the provisions of Article 36 of Chapter 160 of the General Statutes of North Carolina with reference to further annexation unless and until the area, territory or subdivision annexed pursuant hereto shall, by extension of the municipal boundaries pursuant to Article 36 of Chapter 160 of the General Statutes of North Carolina, touch and become a part of the municipal boundaries of the Town of Carolina Beach.

Sec. 7. The total area of all noncontiguous portions of the city annexed pursuant to this act shall at no time exceed twenty percent (20%) of the total area of the Town of Carolina Beach.

Sec. 8. This act shall be supplemental and in addition to any other methods or procedure for annexation heretofore available or hereafter provided for the Town of Carolina Beach.

Sec. 9. If any clause, sentence, paragraph, subsection, section or any part of this act shall for any reason be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such judgment shall not affect, impair or invalidate the remainder of this act but shall be confined in its operation to the part thereof directly involved in said judgment.

Sec. 10. All laws and clauses of laws in conflict with this act are repealed.

Sec. 11. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

S. B. 935

CHAPTER 652

AN ACT TO AMEND THE CHARTER OF THE TOWN OF MARSHVILLE
RELATING TO THE ELECTION AND TERM OF THE BOARD OF
ALDERMEN.

The General Assembly of North Carolina enacts:

Section 1. Chapter 133 of the Private Laws of 1935 is hereby repealed.

Sec. 2. Section 2 of Chapter 313 of the Private Laws of 1913, as amended by Chapter 195 of the Private Laws of 1935, is amended by rewriting the same to read as follows:

“Sec. 2. That the corporate limits of said town shall be and remain as they are now established by former actions of the General Assembly of North Carolina. That the government of said town and the administration of its municipal affairs shall be vested in a mayor and five aldermen who shall be elected by the qualified voters of said town. Beginning with the election in November, 1973, the two candidates for aldermen receiving the highest number of votes shall serve a four-year term and the three candidates for aldermen receiving the next highest number of votes shall serve for a term of two years. Thereafter, all aldermen shall be elected to serve a term of four years.”

Sec. 3. Section 1 of this act shall become effective December 3, 1973.

Sec. 4. Section 2 shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

S. B. 944

CHAPTER 653

AN ACT TO AMEND THE LAWS RELATING TO THE TAXATION AND
REGULATION OF PROFESSIONAL BONDSMEN IN CUMBERLAND
COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 316 of the 1943 Session Laws as amended by Chapter 675 of the 1961 Session Laws is hereby amended by:

(1) Striking out the words and figures “five thousand dollars (\$5,000)” after the word “than” in line 8, and inserting in lieu thereof the words and figures “twenty-five thousand dollars (\$25,000)”.

(2) Striking out the words and figures “five thousand dollars (\$5,000)”, after the word “of” in line 24, and inserting in lieu thereof the words and figures “twenty-five thousand dollars (\$25,000)”.

Sec. 2. Section 3 of Chapter 316 of the 1943 Session Laws is hereby amended by inserting in line 4 the word “not” after the words “an amount” and before the words “in excess of” and by striking the words “of five per cent (5%)” in line 5 and inserting in lieu thereof the words “of fifteen percent (15%)”.

Sec. 3. Section 3 of Chapter 316 of the 1943 Session Laws is hereby amended by striking the comma after the word “bond” in line 5 and inserting in lieu thereof a period, and by striking the proviso beginning on line 5.

Sec. 4. Section 3 of Chapter 316 of the 1943 Session Laws as amended by Chapter 675 of the 1961 Session Laws is hereby amended by striking the words “recorder’s court, mayor’s court and justice of the peace court” beginning at line 2, and inserting in lieu thereof the phrase “any court”.

Sec. 5. Section 2 of Chapter 316 of the 1943 Session Laws as amended by Chapter 675 of the 1961 Session Laws is hereby amended by adding at the end thereof the following:

"No bondsman shall be allowed to sign an individual bond which would exceed two-fifths of the deposit with the Clerk of Superior Court. No bondsman shall be allowed to sign bonds when his aggregate amount of outstanding bonds totals six times his deposit. No bondsman may receive a refund of his deposit until such time as all outstanding bonds are settled and the bondsman has surrendered his license to sign bonds in Cumberland County and produced proof of same to the Clerk of Superior Court. The Clerk of Superior Court shall notify all persons authorized to take bonds of the license surrender."

Sec. 6. This act shall become effective upon ratification and shall be applicable only from and after the date of ratification.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

H. B. 274

CHAPTER 654

AN ACT TO INCREASE THE PENALTIES FOR CERTAIN VIOLATIONS OF THE CONTROLLED SUBSTANCES ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-95 is hereby rewritten to read as follows:

"G.S. 90-95. *Violations; penalties.*—(a) Except as authorized by this Article, it is unlawful for any person:

- (1) to manufacture, sell or deliver, or possess with intent to manufacture, sell or deliver, a controlled substance;
- (2) to create, sell or deliver, or possess with intent to sell or deliver, a counterfeit controlled substance;
- (3) to possess a controlled substance.

(b) Any person who violates G.S. 90-95(a)(1) with respect to:

- (1) a controlled substance classified in Schedule I or II shall be guilty of a felony and shall be sentenced to a term of imprisonment of not more than 10 years or fined not more than ten thousand dollars (\$10,000), or both in the discretion of the court;
- (2) a controlled substance classified in Schedule III, IV, V, or VI shall be guilty of a felony and shall be sentenced to a term of imprisonment of not more than five years or fined not more than five thousand dollars (\$5,000), or both in the discretion of the court, but the transfer of less than 5 grams of marihuana for no remuneration shall not constitute a delivery in violation of G.S. 90-95(a)(1);

(c) Any person who violates G.S. 90-95(a)(2) shall be guilty of a felony and shall be sentenced to a term of imprisonment of not more than five years or fined not more than five thousand dollars (\$5,000), or both in the discretion of the court.

(d) Any person who violates G.S. 90-95(a)(3) with respect to:

- (1) a controlled substance classified in Schedule I shall be guilty of a felony and shall be sentenced to a term of imprisonment of not more than five years or fined not more than five thousand dollars (\$5,000), or both in the discretion of the court;
- (2) a controlled substance classified in Schedule II, III or IV shall be guilty

of a misdemeanor and shall be sentenced to a term of imprisonment of not more than two years or fined not more than two thousand dollars (\$2,000), or both in the discretion of the court; but if the quantity of the controlled substance, or combination of the controlled substances, exceeds 100 tablets, capsules, or other dosage units, or equivalent quantity, the violation shall be a felony punishable by a term of imprisonment of not more than five years or a fine of not more than five thousand dollars (\$5,000), or both in the discretion of the court;

- (3) a controlled substance classified in Schedule V shall be guilty of a misdemeanor and shall be sentenced to a term of imprisonment of not more than six months or fined not more than five hundred dollars (\$500.00), or both in the discretion of the court;
- (4) a controlled substance classified in Schedule VI shall be guilty of a misdemeanor and shall be sentenced to a term of imprisonment of not more than six months or fined not more than five hundred dollars (\$500.00), or both in the discretion of the court; but if the quantity of the controlled substance exceeds one ounce (avoirdupois) of marihuana or one-tenth of an ounce (avoirdupois) of the extracted resin of marihuana, commonly known as hashish, or if the controlled substance consists of any quantity of synthetic tetrahydrocannabinols or tetrahydrocannabinols isolated from the resin of marihuana, the violation shall be a felony punishable by a term of imprisonment of not more than five years or a fine of not more than five thousand dollars (\$5,000), or both in the discretion of the court.

(e) The prescribed punishment and degree of any offense under this Article shall be subject to the following conditions, but the punishment for an offense may be increased only by the maximum authorized under any one of the applicable conditions:

- (1) If any person commits a felony under this Article after having been previously convicted of an offense under any law of North Carolina or any law of the United States or any other state, which offense would be punishable as a felony under this Article, he shall be sentenced to a term of imprisonment of up to twice the term otherwise prescribed or fined up to twice the fine otherwise prescribed, or both in the discretion of the court;
- (2) If any person commits a felony under this Article after having been previously convicted two or more times of offenses under any law of North Carolina or any law of the United States or any other state, which offenses would be punishable as felonies under this Article, he shall be sentenced to a term of imprisonment of not less than 10 years nor more than 30 years or fined not more than thirty thousand dollars (\$30,000), or both in the discretion of the court;
- (3) If any person commits an offense under this Article for which the prescribed punishment includes imprisonment for not more than two years, and if he has previously been convicted for one or more offenses under any law of North Carolina or any law of the United States or any other state, which offenses are punishable under any provision of this Article, he shall be guilty of a felony and shall be sentenced to a term of

imprisonment of not more than five years or fined not more than five thousand dollars (\$5,000), or both in the discretion of the court;

- (4) If any person commits an offense under this Article for which the prescribed punishment includes imprisonment for not more than six months, and if he has previously been convicted for one or more offenses under any law of North Carolina or any law of the United States or any other state, which offenses are punishable under any provision of this Article, he shall be guilty of a misdemeanor and shall be sentenced to a term of imprisonment of not more than two years or fined not more than two thousand dollars (\$2,000), or both in the discretion of the court;
- (5) Any person 18 years of age or over who violates G.S. 90-95(a)(1) by delivering a controlled substance to a person under 16 years of age shall be guilty of a felony and shall be sentenced to a term of imprisonment of not less than five years nor more than 30 years.
- (6) For the purpose of increasing punishment, previous convictions for offenses shall be counted by the number of separate trials at which final convictions were obtained and not by the number of charges at a single trial.

(f) Any person convicted of an offense or offenses under this Article who is sentenced to an active term of imprisonment that is less than the maximum active term that could have been imposed may, in addition, be sentenced to a term of special probation. Except as indicated in this subsection, the administration of special probation shall be the same as probation. The conditions of special probation shall be fixed in the same manner as probation, and the conditions may include requirements for rehabilitation treatment. Special probation shall follow the active sentence but shall not preclude parole. If parole is granted, special probation shall become effective in place of parole. No term of special probation shall exceed five years. Special probation may be revoked in the same manner as probation; upon revocation, the original term of imprisonment may be increased by no more than the difference between the active term of imprisonment actually served and the maximum active term that could have been imposed at trial for the offense or offenses for which the person was convicted, and the resulting term of imprisonment need not be diminished by the time spent on special probation. A person whose special probation term has been revoked may be required to serve all or part of the remainder of the new term of imprisonment.

(g) Whenever matter is submitted to the North Carolina State Bureau of Investigation Laboratory or to the Charlotte, North Carolina, Police Department Laboratory for chemical analysis to determine if the matter is or contains a controlled substance, the report of that analysis certified to upon a form approved by the Attorney General by the person performing the analysis shall be admissible without further authentication in all proceedings in the district court division of the General Court of Justice as evidence of the identity, nature, and quantity of the matter analyzed."

Sec. 2. Subsection (a) of G.S. 90-96 is hereby amended by striking out the word "violating" as it appears immediately after the words "is found guilty of" and immediately before the words "this Article by possessing" in the first sentence of the subsection and substituting therefor the words "a misdemeanor under", and subsection (a) of G.S. 90-96 is further amended by adding the following sentence at the end of the subsection: "Disposition of a case under this

section at the district court division of the General Court of Justice shall be final for the purpose of appeal.”

Sec. 3. G.S. 90-96 is amended by adding a new section to be numbered G.S. 90-96.1 to read as follows:

“§ 90-96.1. *Immunity from prosecution for minors.*—Whenever any person who is not more than 18 years of age, who has not previously been convicted of any offense under this Article or under any statute of the United States of any state relating to controlled substances included in any schedule of this Article, is accused with possessing or distributing a controlled substance in violation of G.S. 90-95(a) (1) or G.S. 90-95(a) (2) or G.S. 90-95(a) (3), the court may, upon recommendation of the solicitor, grant said person immunity from prosecution for said violation(s) if said person shall disclose the identity of the person or persons from whom he obtained the controlled substance(s) for which said person is being accused of possessing or distributing.”

Sec. 4. This act shall not apply to any offense committed prior to the effective date of this act, and any such offense shall be punishable as provided by the law in effect at the time such offense was committed.

Sec. 5. This act shall become effective January 1, 1974.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

H. B. 331

CHAPTER 655

AN ACT AUTHORIZING CITIES TO ESTABLISH SERVICE DISTRICTS AND TO LEVY TAXES THEREIN AND ISSUE BONDS THEREFOR IN ORDER TO FINANCE SUCH SERVICES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 160A of the General Statutes of North Carolina is amended by inserting therein a new article as follows:

“Article 22

“Municipal Service Districts

“§ 160A-500. *Title.*—This article may be cited as ‘The Municipal Service District Act of 1973,’ and is enacted pursuant to Article V, Section 2(4) of the Constitution of North Carolina, effective July 1, 1973.

“§ 160A-501. *Purposes for which districts may be established.*—The city council of any city may define any number of service districts in order to finance, provide, or maintain for the districts one or more of the following services, facilities, or functions in addition to or to a greater extent than those financed, provided or maintained for the entire city:

- (1) beach erosion control and flood and hurricane protection works;
- (2) downtown revitalization projects;
- (3) drainage projects; and
- (4) off-street parking facilities.

As used in this section ‘downtown revitalization projects’ include by way of illustration but not limitation improvements to water mains, sanitary sewer mains, storm sewer mains, electric power distribution lines, gas mains, street lighting, streets and sidewalks, including rights of way and easements therefor, the construction of pedestrian malls, bicycle paths, overhead pedestrian walkways, sidewalk canopies, and parking facilities both on-street and off-street, and other improvements intended to relieve traffic congestion in the central

city, improve pedestrian and vehicular access thereto, reduce the incidence of crime therein, and generally to further the public health, safety, welfare, and convenience by promoting the economic health of the central city or downtown area. Exercise of the authority granted by this article to undertake downtown revitalization projects financed by a municipal service district shall not prejudice the city's authority to undertake urban renewal projects in the same area.

“§ 160A-502. *Definition of service districts.*—(a) Standards. The city council of any city may by resolution define a service district upon finding that a proposed district is in need of one or more of the services, facilities, or functions listed in § 160A-501 to a demonstrably greater extent than the remainder of the city.

(b) Report. Before the public hearing required by subsection (c), the city council shall cause to be prepared a report containing:

- (1) a map of the proposed district, showing its proposed boundaries;
- (2) a statement showing that the proposed district meets the standards set out in subsection (a); and
- (3) a plan for providing in the district one or more of the services listed in G.S. 160A-501.

The report shall be available for public inspection in the office of the city clerk for at least four weeks before the date of the public hearing.

(c) Hearing and Notice. The city council shall hold a public hearing before adopting any resolution defining a new service district under this section. Notice of the hearing shall state the date, hour, and place of the hearing and its subject, and shall include a map of the proposed district and a statement that the report required by subsection (b) is available for public inspection in the office of the city clerk. The notice shall be published at least once not less than one week before the date of the hearing. In addition, it shall be mailed by first class mail at least four weeks before the date of the hearing to the owners as shown by the county tax records as of the preceding January 1 (and at the address shown thereon) of all property located within the proposed district. The person designated by the council to mail the notice shall certify to the council that the mailing has been completed and his certificate is conclusive in the absence of fraud.

(d) Effective Date. The resolution defining a service district shall take effect at the beginning of a fiscal year commencing after its passage, as determined by the city council.

“§ 160A-503. *Extension of service districts.*—(a) Standards. The city council may by resolution annex territory to any service district upon finding that:

- (1) the area to be annexed is contiguous to the district, with at least one-eighth of the area's aggregate external boundary coincident with the existing boundary of the district;
- (2) that the area to be annexed requires the services of the district.

(b) Annexation by Petition. The city council may also by resolution extend by annexation the boundaries of any service district when one hundred percent (100%) of the real property owners of the area to be annexed have petitioned the council for annexation to the service district.

(c) Report. Before the public hearing required by subsection (d), the council shall cause to be prepared a report containing:

- (1) a map of the service district and the adjacent territory, showing the present and proposed boundaries of the district;
- (2) a statement showing that the area to be annexed meets the standards and requirements of subsections (a) or (b); and
- (3) a plan for extending services to the area to be annexed.

The report shall be available for public inspection in the office of the city clerk for at least two weeks before the date of the public hearing.

(d) Hearing and Notice. The council shall hold a public hearing before adopting any resolution extending the boundaries of a service district. Notice of the hearing shall state the date, hour and place of the hearing and its subject, and shall include a statement that the report required by subsection (c) is available for inspection in the office of the city clerk. The notice shall be published at least once not less than one week before the date of the hearing. In addition, the notice shall be mailed at least four weeks before the date of the hearing to the owners as shown by the county tax records as of the preceding January 1 of all property located within the area to be annexed. The person designated by the council to mail the notice shall certify to the council that the mailing has been completed, and his certificate shall be conclusive in the absence of fraud.

(e) Effective Date. The resolution extending the boundaries of the district shall take effect at the beginning of a fiscal year commencing after its passage, as determined by the council.

“§ 160A-504. *Consolidation of service districts.*—(a) The city council may by resolution consolidate two or more service districts upon finding that:

- (1) the districts are contiguous or are in a continuous boundary; and
 - (2) the services provided in each of the districts are substantially the same;
- or
- (3) if the services provided are lower for one of the districts, there is a need to increase those services for that district to the level of that enjoyed by the other districts.

(b) Report. Before the public hearing required by subsection (c), the city council shall cause to be prepared a report containing:

- (1) a map of the districts to be consolidated;
- (2) a statement showing the proposed consolidation meets the standards of subsection (a); and
- (3) if necessary, a plan for increasing the services for one or more of the districts so that they are substantially the same throughout the consolidated district.

The report shall be available in the office of the city clerk for at least two weeks before the public hearing.

(c) Hearing and Notice. The city council shall hold a public hearing before adopting any resolution consolidating service districts. Notice of the hearing shall state the date, hour, and place of the hearing and its subject, and shall include a statement that the report required by subsection (b) is available for inspection in the office of the city clerk. The notice shall be published at least once not less than one week before the date of the hearing. In addition, the notice shall be mailed at least four weeks before the hearing to the owners as shown by the county tax records as of the preceding January 1 of all property

located within the consolidated district. The person designated by the council to mail the notice shall certify to the council that the mailing has been completed, and his certificate shall be conclusive in the absence of fraud.

(d) *Effective Date.* The consolidation of service districts shall take effect at the beginning of a fiscal year commencing after passage of the resolution of consolidation, as determined by the council.

“§ 160A-505. *Required provision or maintenance of services.*—(a) *New District.* When a city defines a new service district, it shall provide, maintain, or let contracts for the services for which the residents of the district are being taxed within a reasonable time, not to exceed one year, after the effective date of the definition of the district.

(b) *Extended District.* When a city annexes territory for a service district, it shall provide, maintain, or let contracts for the services provided or maintained throughout the district to the residents of the area annexed to the district within a reasonable time, not to exceed one year, after the effective date of the annexation.

(c) *Consolidated District.* When a city consolidates two or more service districts, one of which has had provided or maintained a lower level of services, it shall increase the services within that district (or let contracts therefor) to a level comparable to those provided or maintained elsewhere in the consolidated district within a reasonable time, not to exceed one year, after the effective date of the consolidation.

“§ 160A-506. *Abolition of service districts.*—Upon finding that there is no longer a need for a particular service district, the city council may by resolution abolish that district. The council shall hold a public hearing before adopting a resolution abolishing a district. Notice of the hearing shall state the date, hour and place of the hearing, and its subject, and shall be published at least once not less than one week before the date of the hearing. The abolition of any service district shall take effect at the end of a fiscal year following passage of the resolution, as determined by the council.

“§ 160A-507. *Taxes authorized; rate limitation.*—A city may levy property taxes within defined service districts in addition to those levied throughout the city, in order to finance, provide or maintain for the district services provided therein in addition to or to a greater extent than those financed, provided or maintained for the entire city. In addition, a city may allocate to a service district any other revenues whose use is not otherwise restricted by law.

Property subject to taxation in a newly established district or in an area annexed to an existing district is that subject to taxation by the city as of the preceding January 1.

Property taxes may not be levied within any district established pursuant to this article in excess of a rate on each one hundred dollar (\$100.00) value of property subject to taxation which, when added to the rate levied city-wide for purposes subject to the rate limitation, would exceed the rate limitation established in G.S. 160A-209(d), unless that portion of the rate in excess of this limitation is submitted to and approved by a majority of the qualified voters residing within the district. Any referendum held pursuant to this paragraph shall be held and conducted as provided in G.S. 160A-209.

This article does not impair the authority of a city to levy special assessments pursuant to Article 10 of this chapter for works authorized by G.S. 160A-491, and may be used in addition to that authority.

“§ 160A-508. *Bonds authorized.*—(a) A city may issue its general obligation bonds under the Local Government Bond Act to finance services, facilities or functions provided within a service district. If a proposed bond issue is required by law to be submitted to and approved by the voters of the city, and if the proceeds of the proposed bond issue are to be used in connection with a service that is or, if the bond issue is approved, will be provided only for one or more service districts or at a higher level in service districts than city-wide, the proposed bond issue must be approved concurrently by a majority of those voting throughout the entire city and by a majority of the total of those voting in all of the affected or to be affected service districts.”

Sec. 2. All portions of this act except G.S. 160A-506 and 160A-507 become effective upon ratification. G.S. 160A-506 and 160A-507 become effective on July 1, 1973, but all acts necessary to approve a tax levy or issue bonds on or after July 1, 1973, may be taken at any time after ratification of this act.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

H. B. 396**CHAPTER 656**

AN ACT TO PROVIDE THAT THE NORTH CAROLINA DRUG AUTHORITY IS THE SINGLE STATE AGENCY TO HANDLE FEDERAL FUNDS FOR DRUG ABUSE PREVENTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-473 is amended by adding a subsection (c) as follows:

“(c) The North Carolina Drug Authority is hereby designated as the single State agency to coordinate all State efforts relating to drug abuse prevention, education, control, treatment, and rehabilitation.”

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

H. B. 415**CHAPTER 657**

AN ACT TO AUTHORIZE THE ISSUANCE OF \$300,000,000 IN BONDS OF THE STATE TO PROVIDE FUNDS FOR PUBLIC SCHOOL FACILITIES IN THE COUNTIES OF THE STATE SUBJECT TO A VOTE OF THE PEOPLE OF THE STATE.

Whereas, pursuant to the provisions of Chapter 1020, as amended by Chapter 1249 of the Session Laws of 1949, the State of North Carolina made available to the several counties of the State fifty million dollars (\$50,000,000) for the purpose of providing funds for the construction, improvement and repair of school plant facilities, of which twenty-five million dollars (\$25,000,000) was made available from the then existing Post-War Reserve Fund and twenty-five million dollars (\$25,000,000) from a bond issue approved by a vote of the people of the State; and

Whereas, recognizing the acute and continuing need for substantial improvement in school facilities, the State of North Carolina, pursuant to the provisions of Chapter 1046 of the Session Laws of 1953, made available to the

several counties another fifty million dollars (\$50,000,000) provided from a bond issue approved by a vote of the people of the State; and

Whereas, in response to a continuing need for improved and expanded school facilities, the State of North Carolina, pursuant to the provisions of Chapter 1079 of the Session Laws of 1963, made available to the several counties an additional one hundred million dollars (\$100,000,000) provided from a bond issue approved by a vote of the people of the State; and

Whereas, said State grants gave encouragement and impetus to local efforts in providing capital funds for school improvement; and

Whereas, by utilizing local capital outlay funds and local bond issues, substantial progress has been made in the several counties in the addition and improvement of school plant facilities, particularly during the past decade; and

Whereas, in spite of continuing financial efforts at the local level, there remains in the various counties of the State a serious shortage of school plant facilities; and

Whereas, needed consolidation of schools, changing instructional patterns and rapidly approaching obsolescence of some existing school plants have intensified the need for additional school plant facilities; and

Whereas, the financing of capital school improvement at the local school level has become difficult and in some instances, beyond the resources of the counties, many of which have already reached or are approaching the legal limits of borrowing capacity; and

Whereas, the local financing is complicated further by rising interest rates; and

Whereas, pending court decisions may require new methods of school support placing less emphasis on local property taxes; and

Whereas, the State of North Carolina with its superior resources can aid the several counties in financing urgently needed school improvements; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Subject to a favorable vote of a majority of the qualified voters of the State who shall vote thereon in an election called and held as hereinafter provided, the State Treasurer is hereby authorized, by and with the consent of the Governor and Council of State, to issue and sell, at one time or from time to time, bonds of the State to be designated "State of North Carolina Public School Facilities Bonds of 1973" in an aggregate principal amount not exceeding three hundred million dollars (\$300,000,000), for the purpose of providing grants-in-aid to the various counties of the State for the construction, reconstruction, enlargement, improvement, repair and renovation of public school facilities, and for the purchase of equipment essential to the efficient operation of the facilities.

Provided: In the event the State Board of Education determines and finds as a fact that any funds hereinafter allocated to the respective administrative units are not needed, in whole or in part by an administrative unit for the construction, reconstruction, enlargement, improvement, repair or renovation of public school facilities or the purchase of equipment for school facilities, such unneeded funds allocated to the administrative unit may be used for the retirement of school bonds heretofore issued by the county in which such administrative unit is located. The proceeds of the sale of the bonds authorized

by this act are hereby appropriated for the purposes set forth in this act; and this appropriation shall be in addition to all other appropriations heretofore made or which may be made at the 1973 Session of the General Assembly.

Sec. 2. There shall be allocated and distributed to the county and city administrative units of the State from the proceeds of sale of said bonds the following amounts, respectively, such allocation being on the basis of the per capita average daily membership within each such administrative unit for the school year 1971-1972, as herein set forth and as conclusively determined and certified by the State Superintendent of Public Instruction.

DISTRIBUTION OF FUNDS FOR PUBLIC SCHOOL FACILITIES

<u>County and City Administrative Units</u>	<u>1971-72 Average Daily Membership</u>	<u>Allocation to Administrative Unit</u>
Alamance	12,809	\$ 3,328,039.89
Burlington	9,384	2,438,154.93
Alexander	4,582	1,190,497.23
Alleghany	1,793	465,858.03
Anson	5,650	1,467,985.44
Ashe	4,307	1,119,046.62
Avery	3,022	785,177.34
Beaufort	4,539	1,179,324.96
Washington	3,783	982,900.71
Bertie	5,506	1,430,571.30
Bladen	6,976	1,812,507.33
Brunswick	6,553	1,702,603.29
Buncombe	21,569	5,604,066.87
Asheville	7,594	1,973,076.36
Burke	13,224	3,435,865.38
Cabarrus	8,312	2,159,627.43
Concord	3,529	916,906.32
Kannapolis	5,967	1,550,348.52
Caldwell	12,107	3,145,645.95
Lenoir	1,875	487,163.31
Camden	1,465	380,636.94
Carteret	7,115	1,848,622.38
Caswell	4,875	1,266,624.60
Catawba	11,002	2,858,544.39
Hickory	6,087	1,581,526.98
Newton	3,025	785,956.80
Chatham	6,609	1,717,153.23
Cherokee	3,660	950,942.79
Chowan/Edenton	2,843	738,669.51
Clay	1,121	291,258.72
Cleveland	8,619	2,239,392.30
Kings Mountain	4,129	1,072,798.56
Shelby	4,861	1,262,987.13
Columbus	9,390	2,439,713.85
Whiteville	3,257	846,235.14
Craven	8,656	2,249,005.65
New Bern	5,462	1,419,139.20
Cumberland	31,971	8,306,718.99

Fayetteville	12,184	3,165,652.14
Currituck	1,841	478,329.42
Dare	1,492	387,652.11
Davidson	14,209	3,691,788.51
Lexington	4,427	1,150,225.05
Thomasville	3,569	927,299.13
Davie	4,308	1,119,306.42
Duplin	9,397	2,441,532.60
Durham County	14,172	3,682,175.16
Durham City	11,994	3,116,286.24
Edgecombe	6,840	1,777,171.74
Tarboro	3,318	862,084.20
Forsyth/Winston-Salem	46,821	12,165,052.38
Franklin	4,901	1,273,379.94
Franklinton	1,411	366,606.63
Gaston	32,698	8,495,608.44
Gates	2,249	584,336.16
Graham	1,436	373,102.14
Granville	7,633	1,983,209.37
Greene	4,174	1,084,490.49
Guilford	23,565	6,122,668.44
Greensboro	29,146	7,572,726.27
High Point	11,383	2,957,535.96
Halifax	8,786	2,282,782.32
Roanoke Rapids	2,976	773,225.64
Weldon	1,848	480,148.14
Harnett	11,661	3,029,766.06
Haywood	8,921	2,317,858.08
Henderson	6,990	1,816,144.83
Hendersonville	1,860	483,266.01
Hertford	5,712	1,484,094.30
Hoke	4,799	1,246,878.27
Hyde	1,282	333,089.79
Iredell	10,089	2,621,328.33
Mooresville	2,465	640,457.37
Statesville	4,112	1,068,381.60
Jackson	3,419	888,326.04
Johnston	14,765	3,836,248.65
Jones	2,528	656,826.06
Lee	2,258	586,674.54
Sanford	5,279	1,371,592.05
Lenoir County	7,130	1,852,519.68
Kinston	5,520	1,434,208.77
Lincoln	5,541	1,439,664.99
Lincolnton	2,386	619,931.55
Macon	3,280	852,211.02
Madison	2,912	756,597.09
Martin	6,247	1,623,098.22
McDowell	6,573	1,707,799.68
Mecklenburg/Charlotte	78,931	20,507,886.36

Mitchell	2,814	731,134.68
Montgomery	4,584	1,101,016.86
Moore	9,567	2,485,702.05
Nash	11,094	2,882,447.85
Rocky Mount	6,758	1,755,866.46
New Hanover	19,144	4,974,002.31
Northampton	6,028	1,566,197.55
Onslow	15,281	3,970,315.98
Orange	4,728	1,228,431.00
Chapel Hill	4,876	1,266,884.43
Pamlico	2,367	614,994.96
Pasquotank/Elizabeth City	6,231	1,618,941.09
Pender	4,524	1,175,427.63
Perquimans	2,077	539,647.02
Person	6,811	1,769,636.94
Pitt	11,792	3,063,802.50
Greenville	5,710	1,483,574.67
Polk	1,801	467,936.58
Tryon	702	182,393.94
Randolph	12,429	3,229,308.12
Asheboro	4,684	1,216,998.90
Richmond	9,829	2,553,775.02
Robeson	12,549	3,260,486.58
Fairmont	2,798	726,977.55
Lumberton	4,767	1,238,563.98
Maxton	1,404	364,787.88
Red Springs	1,771	460,141.98
Saint Pauls	1,641	426,365.34
Rockingham	4,922	1,278,836.16
Eden	4,781	1,242,201.48
Madison/Mayodan	2,815	731,394.51
Reidsville	4,879	1,267,663.89
Rowan	13,931	3,619,558.41
Salisbury	3,694	959,776.68
Rutherford	10,544	2,739,546.60
Sampson	7,807	2,028,418.11
Clinton	3,328	864,682.38
Scotland/Laurinburg	6,937	1,802,374.32
Stanly	6,707	1,742,615.61
Albemarle	2,673	694,500.00
Stokes	5,759	1,496,305.86
Surry	8,085	2,100,648.18
Elkin	1,175	305,289.00
Mount Airy	2,446	635,520.78
Swain	1,659	431,042.10
Transylvania	4,409	1,145,548.29
Tyrrell	1,008	261,898.98
Union	10,172	2,642,893.41
Monroe	3,104	806,482.62
Vance	7,543	1,959,825.51

Wake	28,078	7,295,238.03
Raleigh	21,846	5,676,037.11
Warren	4,116	1,069,420.89
Washington County	3,689	958,477.56
Watauga	4,308	1,119,306.42
Wayne	14,155	3,677,758.20
Goldsboro	6,736	1,750,150.41
Wilkes	9,555	2,482,584.21
North Wilkesboro	2,028	526,915.83
Wilson County	4,631	1,203,228.42
Elm City	1,487	386,352.99
Wilson City	7,092	1,842,646.50
Yadkin	5,492	1,426,933.80
Yancey	2,739	711,648.15
TOTALS	1,151,757	\$299,250,000.00

In the event two or more administrative units shall be consolidated into one administrative unit, the amount allocated above to such administrative units shall be appropriated to the merged administrative unit.

Funds received and disbursed under the provisions of this act shall be administered by the State Board of Education and shall be used only for the purposes specified in this act.

Each county and city school administrative unit shall submit to the State Board of Education for approval a plan or plans of school organization and of expenditure of funds available for school purposes; and the plan or plans may include joint expenditures by two or more administrative units for school facilities and equipment.

After approval of the plan or plans submitted by an administrative unit, the State Board of Education shall make available, at one time or from time to time, from the moneys herein allocated to an administrative unit, funds for the construction, reconstruction, enlargement, improvement, repair or renovation of public school facilities and for the purchase of any equipment essential to the efficient operation of the facilities.

Sec. 3. The proceeds of sale of the bonds authorized by this act may be used in conjunction with any federal funds available for the construction, reconstruction, enlargement, improvement, repair or renovation of public school facilities, and the State Board of Education and the county and city administrative units are authorized to apply for and accept any federal funds and to agree to the terms and conditions under which such funds shall be made available.

Sec. 4. There is hereby allocated from the proceeds of sale of the bonds authorized by this act to the State Board of Education the sum of seven hundred fifty thousand dollars (\$750,000) to be used, first, for paying any expenses necessarily incurred in the preparation and sale of the bonds and any bond anticipation notes herein authorized; and the remaining sum shall be used for providing educational surveys and technical assistance to local administrative units necessary to the construction and improvement of school plant facilities; and for evaluating the program of school construction made possible through this act; and for conducting such research and experimentation in school house planning and construction as would be productive in the future design and construction of school facilities. In addition, there is appropriated to the Board

of Education for such purposes any premiums received on the sale of the bonds and any bond anticipation notes authorized by this act. The Division of School Planning in the Department of Public Instruction shall provide the technical assistance and shall conduct or cause to be conducted the surveys, evaluations and research authorized by this section and shall make the results thereof available to the county and city administrative units.

Sec. 5. Bonds authorized by this act shall bear such date or dates, shall be serial bonds, and shall mature at such times and in such amounts, not exceeding 25 years from their date or respective dates, and may be made redeemable before maturity, at the option of the State, at such price or prices and under such terms and conditions, and shall bear interest at such rate or rates, payable semiannually, all as may be fixed by the State Treasurer with the approval of the Governor and Council of State.

Sec. 6. The bonds issued pursuant to this act shall be signed on behalf of the State of North Carolina by the Governor or shall bear his facsimile signature; shall be signed by the State Treasurer, or shall bear his facsimile signature; shall bear the Great Seal of the State or a facsimile thereof impressed or imprinted thereon; and shall carry interest coupons which shall bear a facsimile of the signature of the State Treasurer. In the event that the bonds shall bear the facsimile signature of the State Treasurer, the bonds shall also be signed by an assistant treasurer or a deputy treasurer as the State Treasurer shall determine. Should any officer whose signature or facsimile appears on any bonds or coupons cease to be such officer before the delivery of the bonds, such signature or facsimile shall nevertheless have same validity for all purposes as if the officer had remained in office until delivery. The form and denomination of the bonds shall be as the State Treasurer may determine in conformity with this act, and the bonds shall be subject to registration as is now or hereafter may be provided by law for State bonds, and provision may also be made for the reconversion into coupon bonds of any bonds registered as to both principal and interest.

Sec. 7. Subject to determination by the Governor and Council of State as to the manner in which the bonds shall be offered for sale, whether by publishing notices in certain newspapers and financial journals or by mailing notices or by inviting bids by correspondence or otherwise, the State Treasurer is authorized to sell the bonds at one time or from time to time at the best price obtainable, but in no case for less than par and accrued interest. All expenses incurred in the preparation and sale of the bonds and any bond anticipation notes herein authorized shall be paid by the State Treasurer from the proceeds of sale allocated to the State Board of Education under Section 4 of this act.

Sec. 8. The proceeds of the bonds and of the bond anticipation notes herein authorized, except the proceeds of bonds the issuance of which has been anticipated by such bond anticipation notes, shall be placed by the State Treasurer in a special fund known as the "Public School Facilities Fund of 1973", and shall be disbursed, under the direction and supervision of the State Board of Education, as herein provided.

Sec. 9. By and with consent of the Governor and Council of State, who shall determine the rate or rates or maximum rate of interest and the date or approximate date of payment, the State Treasurer is hereby authorized to borrow money at the lowest rate of interest obtainable, and to execute and issue

notes of the State for the same, but only in the following circumstances and under the following conditions:

(1) For anticipating the sale of any of said bonds to the issuance of which the Governor and Council of State shall have given consent, if the State Treasurer shall deem it advisable to postpone the issuance of the bonds;

(2) For the payment of interest upon or any installment of principal of any of the bonds then outstanding, if there shall not be sufficient funds in the State treasury with which to pay such interest or installment of principal as they respectively become due;

(3) For the renewal of any loan evidenced by notes herein authorized.

Sec. 10. Funds derived from the sale of bonds herein authorized shall be used in the payment of any bond anticipation notes that may have been issued in anticipation of the sale of bonds and any renewals of such notes; and funds provided by the General Assembly for payment of the interest on or principal of bonds herein authorized shall be used in paying the interest on or principal of any notes and any renewals thereof, the proceeds of which shall have been used in paying interest on or principal of the bonds. Interest payments upon the notes may be evidenced by interest coupons in the State Treasurer's discretion.

Sec. 11. The full faith, credit and taxing power of the State are hereby pledged for the payment of the principal of and the interest on the bonds and notes herein authorized.

Sec. 12. The coupons appertaining to the bonds and notes after maturity shall be receivable in payment of all taxes, debts, dues, licenses, fines and demands of any kind whatsoever due to the State.

Sec. 13. All of the bonds and notes and coupons authorized by this act shall be exempt from all State, county and municipal taxation or assessment, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, and the interest on the bonds and notes shall not be subject to taxation as to income, nor shall the bonds or notes or coupons be subject to taxation when constituting a part of the surplus of any bank, trust company or other corporation.

Sec. 14. It shall be lawful for all executors, administrators, guardians and fiduciaries generally, and all sinking fund commissions, to invest any moneys in their hands in said bonds and notes.

Sec. 15. The question of the issuance of the three hundred million dollars (\$300,000,000) State of North Carolina Public School Facilities Bonds of 1973 authorized by this act shall be submitted to the qualified voters of the State of North Carolina at an election to be held on a date not later than November 30, 1973 to be fixed by the Governor by a proclamation issued by him; provided, that the election herein provided for may be held on the same day as any other State, county, municipal or district election, and any other State, county, municipal or district election may be validly held on the same day as the bond election provided for in this act. Notice of the bond election shall be given by publication at least twice in a newspaper published in each county in the State or having a general circulation therein, and the election and the registration of voters therefor shall be held under and in accordance with the general laws of the State. The State shall reimburse the counties of the State for all necessary expenses incurred in holding the election and registration therefor, the same to be paid out of the Contingency and Emergency Fund. The State Board of Elections shall cause to be printed and distributed the ballots which

are to be used in the election, which said ballots shall be substantially in the following form:

OFFICIAL BALLOT
THREE HUNDRED MILLION DOLLARS STATE OF NORTH CAROLINA
PUBLIC SCHOOL

FACILITIES BONDS OF 1973

Instructions for Marking Ballot

- (a) To vote in favor of the issuance of the bonds, make a cross (x) mark in the square opposite the words "For the issuance of three hundred million dollars (\$300,000,000) State of North Carolina Public School Facilities Bonds of 1973."
 - (b) To vote against the issuance of the bonds, make a cross (x) mark in the square opposite the words "Against the issuance of three hundred million dollars (\$300,000,000) State of North Carolina Public School Facilities Bonds of 1973."
 - (c) If you tear or deface or wrongly mark this ballot, return it and get another.
- ☐ For the issuance of three hundred million dollars
(\$300,000,000) State of North Carolina Public School Facilities Bonds
of 1973.
- ☐ Against the issuance of three hundred million
dollars (\$300,000,000) State of North Carolina Public School Facilities
Bonds of 1973.

(Facsimile signature)

Chairman, State Board of Elections

Those voting in the election who are in favor of the issuance of the bonds shall vote by making an X in the square opposite the words "For the issuance of three hundred million dollars (\$300,000,000) State of North Carolina Public School Facilities Bonds of 1973."

Those opposed to the issuance of said bonds shall vote by making an X in the square opposite the words "Against the issuance of three hundred million dollars (\$300,000,000) State of North Carolina Public School Facilities Bonds of 1973."

Notwithstanding the foregoing provisions of this section, voting machines may be used in accordance with rules and regulations prescribed by the State Board of Elections.

If a majority of those voting thereon in the election shall vote in favor of the issuance of the bonds, the bonds shall be issued as hereinbefore provided. In the event a majority of those voting thereon in the election shall vote against the issuance of the bonds, the bonds shall not be issued.

The result of the election shall be canvassed and declared as provided by law for the holding of elections for State officers and the result thereof certified by the State Board of Elections to the Secretary of State of North Carolina, in the manner and at the time provided by the general election laws of the State.

Sec. 16. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 17. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

H. B. 545

CHAPTER 658

AN ACT TO AMEND THE STATE LAW WITH RESPECT TO
DISCHARGE FROM STATE MENTAL HOSPITALS OF PERSONS
ACQUITTED OF CRIME BY REASON OF INSANITY.

Whereas, the Senate in Senate Resolution 871 of 1971 has directed the Legislative Research Commission to make a complete in-depth study of the Department of Mental Health and related programs and to make recommendations to the 1973 General Assembly; and

Whereas, the Legislative Research Commission has found a need for comprehensive revision of the State laws relating to incompetency, admission and commitment to mental hospitals, discharge from mental hospitals, and mental illness as a defense to criminal charges; and

Whereas, the Commission has recommended the creation of a Mental Health Code Commission, which is the subject of a separate bill, for the purpose of drafting a comprehensive revision of such State laws and submitting it to the 1975 General Assembly; and

Whereas, the Commission has also recommended the immediate amendment by the 1973 General Assembly of G.S. 122-86, which has been invalidated by the 1972 decision of the North Carolina Supreme Court in the case of *In re Tew*; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Purpose of act. The purpose of this act is to revise G.S. 122-86 in accord with the decision of the Supreme Court of North Carolina in the 1972 case of *In re Tew*.

Sec. 2. Amendments. G.S. 122-86 is hereby amended to read as follows:

“§ 122-86. *Persons acquitted of crime on account of mental illness; how discharged from hospital.* Any person acquitted of a crime on the ground of mental illness, and committed to the hospital designated in G.S. 122-83, shall have the right to apply to any judge having jurisdiction for a writ of habeas corpus. At the habeas corpus hearing the burden will be on the petitioner to prove that he has recovered from his mental illness and that he does not appear to require further hospitalization and treatment to avoid danger himself or others. The judge will consider all the evidence offered by the petitioner and the State and make his finding therefrom. The judge may release the petitioner unconditionally or conditionally, or he may remand the petitioner to the custody of the hospital.”

Sec. 3. Effective date. This act shall be effective upon its ratification.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

H. B. 672

CHAPTER 659

AN ACT TO EXTEND THE LIMITATION ON TORT CLAIMS TO THREE YEARS FROM ACCRUAL THEREOF.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-299 as the same appears in the 1971 Cumulative Supplement to Volume 3C of the General Statutes is hereby rewritten to read as follows:

“§ 143-299. *Limitation on claims.*—All claims against any and all State departments, institutions, and agencies shall henceforth be forever barred unless a claim be filed with the Industrial Commission within three years after the accrual of such claim, or if death results from the accident, the claim for wrongful death shall be forever barred unless a claim be filed by the personal representative of the deceased with the Industrial Commission within two years after such death.”

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

H. B. 786

CHAPTER 660

AN ACT TO REWRITE G.S. 95-17 WHICH PROVIDES LIMITATION UPON HOURS OF EMPLOYMENT; TO REPEAL G.S. 95-18(4); TO REPEAL G.S. 95-27 WHICH LIMITS HOURS OF EMPLOYMENT FOR WOMEN; AND TO REPEAL G.S. 95-29 WHICH REQUIRES THAT SEATS BE FURNISHED WOMEN EMPLOYEES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 95-17, as the same appears in the 1971 Cumulative Supplement to the 1965 Replacement Volume 2C of the General Statutes, is hereby rewritten to read as follows:

“§ 95-17. *Limitations of hours of employment; exceptions.*—No employer shall employ a person for more than 56 hours in any one week, or more than 12 days in any period of 14 consecutive days or more than 10 hours in any one day, except that in case where two or more shifts of eight hours each or less per day are employed, any shift employee may be employed not to exceed double his regular shift hours in any one day whenever a fellow employee in like work is prevented from working because of illness or other cause: Provided, also, that the 10 hours per day maximum shall not apply to any employee when his employment is required for a longer period on account of an emergency due to breakdown, installation or alteration of equipment.

No provision in this Article shall be deemed to authorize the employment of any minor in violation of the provisions of any law expressly regulating the hours of labor of minors under 18 years of age or of any regulations made in pursuance of such laws.

Where the day is divided into two or more work periods for the same employee, the employer shall provide that all such periods shall be within 12 consecutive hours, except that in the case of employees of motion picture theatres, restaurants, dining rooms, and public eating places, such period shall be within 14 consecutive hours:

Provided, that the transportation of employees to and from work shall not constitute any part of the employees' work hours.

Nothing in this section or any other provisions of this Article shall apply to the employment of persons in agricultural occupations, cotton gins or in domestic service in private homes and boardinghouses, or to the work of persons over 18 years of age in bona fide office, foremanship, clerical or supervisory capacity, executive positions, learned professions, commercial travelers, seasonal hotels and club houses, commercial fishing or fruit and vegetable processing plants, employers employing a total of not more than three persons in each place of business, charitable institutions and hospitals: Provided further, that nothing in this section or in any other provision of this Article shall apply to railroads, common carriers and public utilities subject to the jurisdiction of the Interstate Commerce Commission or the North Carolina Utilities Commission, and utilities operated by municipalities or any transportation agencies now regulated by the federal government: Provided further, that the limitation on daily and weekly hours and the number of days in any period of 14 consecutive days provided for in this section shall not apply to any employee 18 years of age and over whose employment is covered by or in compliance with the Fair Labor Standards Act of 1938 (Public No. 718; 75th Congress; Chapter 676-3rd Session), as amended or as same may be amended: Provided, nothing in this Article shall apply to the State or to municipal corporations or their employees.

Provided further, nothing contained in this Article shall be construed to limit the hours of employment of any outside salesmen on commission basis: Provided, that this Article shall not apply to retail or wholesale florists nor to employees of retail or wholesale florists during the following periods of each year; one week prior to and including Easter, one week prior to and including Christmas, and one week prior to and including Mother's Day."

Sec. 2. G.S. 95-18(4), as the same appears in the 1965 Replacement Volume 2C of the General Statutes, is hereby repealed.

Sec. 3. G.S. 95-27, as the same appears in the 1965 Replacement Volume 2C of the General Statutes, is hereby repealed.

Sec. 4. G.S. 95-29 as the same appears in the 1965 Replacement Volume 2C of the General Statutes is hereby repealed.

Sec. 5. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

H. B. 885

CHAPTER 661

AN ACT TO AMEND G.S. 122-35.19(2) CONCERNING BUDGETING PROCEDURES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 122-35.19(2), as the same appears in the 1971 Cumulative Supplement of Volume 3B of the General Statutes, is hereby amended and rewritten to read as follows:

"(2) With the approval of the Advisory Budget Commission to develop and test budgeting procedures for combining local and State grant-in-aid funds with funds appropriated for the operation of departmental facilities serving the population of the region. Provided, that 'local funds' and 'State grant-in-aid' shall be defined and determined in accordance with the provisions of G.S.

122-35.11 and G.S. 122-35.12 and shall be unaffected by the addition of funds appropriated for the operation of State facilities.”

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

H. B. 1289

CHAPTER 662

AN ACT AMENDING G.S. 116-191 SO AS TO PERMIT THE ISSUANCE OF REVENUE BOND ANTICIPATION NOTES BY THE BOARD OF GOVERNORS OF THE UNIVERSITY OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. G.S. 116-191 is hereby amended by adding the following at the end thereof:

“The board is hereby authorized to issue, subject to the approval of the Advisory Budget Commission, at one time or from time to time, revenue bond anticipation notes of the board in anticipation of the issuance of bonds authorized pursuant to the provisions of this Article. The principal of and the interest on such notes shall be payable solely from the proceeds of bonds or renewal notes or, in the event bond or renewal note proceeds are not available, any available revenues of the project or projects for which such bonds shall have been authorized. The notes of each issue shall be dated, shall mature at such time or times not exceeding two years from their date or dates, shall bear interest at such rate or rates not exceeding eight per centum (8%) per annum, as may be determined by the board, and may be redeemable before maturity, at the option of the board, at such price or prices and under such terms and conditions as may be fixed by the board prior to the issuance of the notes. The board shall determine the form and the manner of execution of the notes, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the notes and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the State. In case any officer, whose signature or a facsimile of whose signature shall appear on any notes or coupons, shall cease to be such officer before the delivery of such notes, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any of the other provisions of this Article or any recitals in any notes issued under the provisions of this Article, all such notes shall be deemed to be negotiable instruments under the laws of this State, subject only to the provisions for registration in any resolution authorizing the issuance of such notes or any trust agreement securing the bonds in anticipation of which such notes are being issued. The notes may be issued in coupon or registered form or both, as the board may determine, and provision may be made for the registration of any coupon notes as to principal alone and also as to both principal and interest, and for the reconversion into coupon notes of any notes registered as to both principal and interest. The board may sell such notes in such manner, at public or private sale, and for such price, as it may determine to be for the best interests of the board, but no sale shall be made at a price so low as to require the payment of interest on the money received therefor at more than eight per centum (8%) per annum, computed with relation to the absolute maturity or maturities of the bonds in accordance with standard tables

of bond values, excluding, however, from such computation the amount of any premium to be paid on redemption of any notes prior to maturity.

The proceeds of the notes of each issue shall be used solely for the purpose for which the bonds in anticipation of which such notes are being issued shall have been authorized, and such note proceeds shall be disbursed in such manner and under such restrictions, if any, as the board may provide in the resolution authorizing the issuance of such notes or bonds or in the trust agreement securing such bonds.

The resolution providing for the issuance of notes, and any trust agreement securing the bonds in anticipation of which such notes are being authorized, may also contain such limitations upon the issuance of additional notes as the board may deem proper, and such additional notes shall be issued under such restrictions and limitations as may be prescribed by such resolution or trust agreement. The board may also provide for the replacement of any notes which shall become mutilated or be destroyed or lost.

Except as herein otherwise provided, notes may be issued under this Article and other powers vested in the board under this Article may be exercised by the board without obtaining the consent of any department, division, commission, board, bureau or agency of the State and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions or things which are specifically required by this Article.

Unless the context shall otherwise indicate, the word 'bonds', wherever used in this Article, shall be deemed and construed to include the words 'bond anticipation notes'."

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

H. B. 1292

CHAPTER 663

AN ACT AMENDING G.S. 116-41.4 TO PERMIT THE ISSUANCE OF NOT IN EXCESS OF \$13,000,000 REVENUE BONDS AND THE ISSUANCE OF REVENUE BOND ANTICIPATION NOTES BY THE BOARD OF GOVERNORS OF THE UNIVERSITY OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. G.S. 116-41.4 is hereby amended by changing the period at the end of the first sentence thereof to a semicolon and adding the following:

"provided, further, that the aggregate principal amount of revenue bonds which the Board is authorized to issue under this section during the biennium ending June 30, 1975, shall not exceed thirteen million dollars (\$13,000,000)."; and by adding the following at the end of said G.S. 116-41.4:

"The Board is hereby authorized to issue, subject to the approval of the Advisory Budget Commission, at one time or from time to time, revenue bond anticipation notes of the Board in anticipation of the issuance of bonds authorized pursuant to the provisions of this Part. The principal of and the interest on such notes shall be payable solely from the proceeds of bonds or renewal notes or, in the event bond or renewal note proceeds are not available,

any available revenues of the project or projects for which such bonds shall have been authorized. The notes of each issue shall be dated, shall mature at such time or times not exceeding two (2) years from their date or dates, shall bear interest at such rate or rates as may be determined by the Board, and may be made redeemable before maturity, at the option of the Board, at such price or prices and under such terms and conditions as may be fixed by the Board, and may be made redeemable before maturity, at the option of the Board, at such price or prices and under such terms and conditions as may be fixed by the Board prior to the issuance of the notes. The Board shall determine the form and manner of execution of the notes, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the notes and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the State. In case any officer, whose signature or a facsimile of whose signature shall appear on any notes or coupons, shall cease to be such officer before the delivery of such notes, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any of the other provisions of this Part or any recitals in any notes issued under the provisions of this Part, all such notes shall be deemed to be negotiable instruments under the laws of this State. The notes may be issued in coupon or registered form or both, as the Board may determine, and provision may be made for the registration of any coupon notes as to principal alone and also as to both principal and interest, and for the reconversion into coupon notes of any notes registered as to both principal and interest. The Board may sell such notes in such manner, at public or private sale, and for such price, as it may determine to be for the best interests of the University.

The proceeds of the notes of each issue shall be used solely for the purpose for which the bonds in anticipation of which such notes are being issued shall have been authorized, and such note proceeds shall be disbursed in such manner and under such restrictions, if any, as the Board may provide in the resolution authorizing the issuance of such notes or bonds.

The resolution providing for the issuance of notes or bonds, may also contain such limitations upon the issuance of additional notes as the Board may deem proper, and such additional notes shall be issued under such restrictions and limitations as may be prescribed by such resolution.

Notes may be issued by the Board under the provisions of this Part, subject to the approval of the Advisory Budget Commission, but without obtaining the consent of any other commission, board, bureau or agency of the State, and without any other proceedings or the happening of any other conditions or things than those consents, proceedings, conditions or things which are specifically required by this Part.

Revenue bond anticipation notes issued under the provisions of this Part shall not be deemed to constitute a debt of the State of North Carolina or a pledge of the faith and credit of the State, but such notes shall be payable solely from the funds herein provided therefor and a statement to that effect shall be recited on the face of the notes.

Unless the context shall otherwise indicate, the word 'bonds', wherever used in this Part, shall be deemed and construed to include the words 'bond anticipation notes'."

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

S. B. 140

CHAPTER 664

AN ACT TO AMEND G.S. 20-11(b) RELATIVE TO LEARNERS' PERMITS FOR MINORS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-11(b) is hereby amended by rewriting the same to read as follows:

"(b) The Department may grant an application for a limited learner's permit of any minor under the age of 16, who otherwise meets the requirements of licensing under this section, when such application is signed by both the applicant and his or her parent or guardian or some other responsible adult with whom the applicant resides and is approved by the Department of Motor Vehicles. Such limited learner's permit shall entitle the applicant, while having such permit in his immediate possession, to drive a motor vehicle upon the highways for a period of six months, while such minor is accompanied by a parent, guardian, or other person approved by the Department, who is licensed under this Chapter to operate a motor vehicle and who is actually occupying a seat beside the driver. Provided, however, a limited learner's permit as herein provided shall be issued only to those applicants who have reached the age of 15 years. In the event a minor who has been issued a limited learner's permit under this subsection operates a motor vehicle in violation of any provision herein, the permit shall be cancelled."

Sec. 2. Provided a driver who holds a learner's permit only shall not be deemed a male operator under age 25 for the purpose of determining the insurance premium rate for persons insured under automobile property damage and bodily injury liability insurance policies.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

S. B. 436

CHAPTER 665

AN ACT REQUIRING LICENSING AND BONDING OF GRAIN DEALERS.

The General Assembly of North Carolina enacts:

Section 1. Definitions. (a) "Person" means an individual, partnership, corporation, association, syndicate or other legal entity.

(b) "Grain dealer" means any person owning, controlling or operating an elevator, mill, warehouse or other similar structure or truck or tractor trailer unit or both who buys, solicits for sale or resale, processes for sale or resale, contracts for storage or exchange, or transfers grain of a North Carolina producer. The term "grain dealer" shall exclude producers or groups of producers buying grain for consumption on their farms.

(c) "Producer" means the owner, tenant or operator of land in this State who has an interest in and receives all or any part of the proceeds from the sale of the grain produced thereon.

(d) "Grain" as used herein shall be construed to include, but not by way of limitation, corn, wheat, rye, oats, sorghum, barley, mixed grain and soybeans.

(e) "Commissioner" means the North Carolina Commissioner of Agriculture.

(f) "Cash buyer" means any grain dealer who pays the producer, or his representative at the time of obtaining title, possession or control of grain, the full agreed price of such grain in coin or currency, lawful money of the United States, certified checks, cashier's checks or drafts issued by a bank.

(g) "Department" means the North Carolina Department of Agriculture.

Sec. 2. License required. No person shall act or hold himself out as a grain dealer without first having obtained a license as herein provided.

Sec. 3. Application for license or renewal thereof. Every grain dealer before transacting business within the State of North Carolina shall on or before July 1, 1974, and annually on or before June 15 of each year thereafter, file a written application for a license or for the renewal of a license with the Commissioner. The application shall be on a form furnished by the Commissioner and shall contain the following information:

(a) The name and address of the applicant and that of its local agent or agents, if any, and the location of its principal place of business within this State.

(b) The kinds of grain the applicant proposes to handle.

(c) The type of grain business proposed to be conducted.

Sec. 4. License fee; bond required; exemption. All applications shall be accompanied by an initial or renewal license fee of twenty-five dollars (\$25.00) plus twenty dollars (\$20.00) per certificate or decal for each separate buying station or truck and a good and sufficient bond in the amount of ten thousand dollars (\$10,000) to satisfy the initial license application. A fee of one dollar (\$1.00) shall be charged for each duplicate license, certificate or decal. "Cash buyers" upon written request to the Commissioner showing proof satisfactory to the Commissioner that the person is a "cash buyer" under this Article shall be exempted from bonding requirements hereunder. The exemption shall be granted within 20 days of the receipt of the exemption request or unless the Commissioner requests the dealer to provide additional necessary information or unless the request is denied.

Sec. 5. Execution, terms and form of bond; action on bond; investigation of complaints. Such bond shall be made payable to the State of North Carolina with the Commissioner as trustee and shall be conditioned upon the grain dealer's faithful performance of his duties as a grain dealer and his compliance with this act and shall be for the use and benefit of any producer from whom the grain dealer may purchase or store grain and who is not paid by such grain dealer, and shall not be cancelled during the period for which the license is issued except upon 30 days' notice in writing to the Department. The liability of the surety of any bond required by the provisions of this act shall not accumulate for each successive license period and the aggregate liability of the surety shall not exceed the face amount of the bond. Any producer claiming to be injured by the nonpayment, fraud, deceit or negligence of any dealer may bring action in the Superior Court of the county of residence of the producer therefor upon the bond within 120 days of the date of delivery of such grain to the dealer. The producer may notify the Commissioner in writing, by certified

mail when possible, of such failure or refusal within the 120 day period unless contracted otherwise, or 10 days thereafter. In the event the Commissioner receives written complaint from an alleged injured producer of nonpayment, fraud, deceit or negligence of a dealer, the Commissioner may investigate such complaint and make recommendations to the surety company relative to the culpability or nonculpability of the dealer and the extent thereof.

Sec. 6. *Posting of license and registration.* The grain dealer license shall be posted in a conspicuous place in the place of business. In the case of a licensee operating a truck or tractor trailer unit, the licensee is required to have a decal that the license is in effect and that a bond has been filed, such decal to be carried in each truck or tractor trailer unit used in connection with the purchase of grain from producers.

Sec. 7. *Renewal of license.* Licenses shall be renewed upon application and payment of renewal fees on or before the 15th day of June following the date of expiration of any license hereunder issued. Applications received after June 15 of any year shall be subject to a late filing fee of ten dollars (\$10.00) in addition to other applicable fees.

Sec. 8. *Disposition of fees.* All fees payable under this Article shall be collected by the North Carolina Department of Agriculture for the administration of this law.

Sec. 9. *Records to be kept by dealers.* It shall be the duty of every person doing business as a grain dealer in this State to keep records of grain transactions for reasonable periods of time and in accordance with good business practices.

Sec. 10. *Grounds for refusal, suspension or revocation of license.* The Commissioner may refuse to grant or renew license, may suspend or may revoke any license upon a showing by substantial and competent evidence that:

(a) The dealer has suffered a final money judgment to be entered against him and such judgment remains unsatisfied; or

(b) The dealer has failed to promptly and properly account and pay for grain; or

(c) The dealer has failed to keep and maintain business records of his grain transactions as required herein; or

(d) The dealer has engaged in fraudulent or deceptive practices in the transaction of his business as a dealer; or

(e) The dealer has failed to collect from a producer and remit to the Commissioner of Agriculture such assessments as have been approved by the producers and are required to be collected under the provisions of Article 50 of Chapter 106 of the General Statutes; or

(f) The dealer or applicant has been convicted, pled guilty or nolo contendere within three years in any state or federal court of a crime involving moral turpitude.

Sec. 11. *Procedure for refusal, suspension or revocation of license.* Before the Commissioner or his duly authorized representative shall refuse an initial or renewal license or revoke a license, he shall give at least 10 days' actual notice or notice by registered mail to the applicant or licensee of the time and place of hearing. At such hearing, the applicant or licensee shall be privileged to appear in person, or with counsel and to produce witnesses.

At the time and place fixed, the Commissioner or his designated representative shall proceed to hear the matter and any charges made and both the applicant or licensee and any complainant shall be accorded ample

opportunity to present in person or by counsel such statements, testimony, evidence and arguments as may be pertinent to the matter or charges or to any defense thereto. The Commissioner or his designated representative may continue such hearings from time to time. The hearing shall be reduced to writing.

The Commissioner is authorized to issue subpoenas and to bring before him or his designated representative any person or persons in this State and to take testimony either orally or by deposition or by exhibit with the same fees and mileage and in the same manner as prescribed by law in judicial proceedings and civil cases in the superior courts of this State.

The Commissioner is authorized to issue subpoenas on any or all records relating to a grain dealer's business. The Commissioner or his designee may administer oaths to witnesses at any hearing that the Department is authorized by law to conduct. If the Commissioner or his designee shall find the applicant or licensee guilty of any act provided in Section 10, the Commissioner may refuse, suspend or revoke such license and shall give immediate notice to the applicant or licensee.

No suspension shall be for a longer period than one year.

No person whose license has been revoked shall be eligible to receive another license until at least two years have elapsed from the date of the order of revocation, or if appealed, two years from the final judgment sustaining such revocation.

Any person aggrieved by an order denying, suspending or revoking a license may appeal to the Superior Court of Wake County and the procedure for such appeal shall be exclusively governed by the provisions of Chapter 150 of the General Statutes.

Sec. 12. *Commissioner's authority to investigate.* In furtherance of any such investigation, inspection or hearing, the Commissioner or his duly authorized agent shall have full authority to make any and all necessary investigations relative to the complaint or matter being investigated; and they shall have free and unimpeded access during normal business hours to all buildings, yards, warehouses, storage and transportation facilities in which grain is kept, stored, handled, or transported, or where records of grain transactions are kept.

Sec. 13. *Rules and regulations.* The Board of Agriculture may adopt such rules and regulations as may be necessary to carry out the administration and enforcement of this Article.

Sec. 14. *Violation a misdemeanor.* Any person who violates any provision of this act or any rule or regulation of the Board of Agriculture promulgated hereunder shall be guilty of a misdemeanor and upon conviction thereof fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) or imprisoned for not more than 60 days, or both fined and imprisoned. In case of a continuing violation or violations, each day and each violation occurring constitutes a separate and distinct offense.

Sec. 15. *License required; injunction for violation.* It shall be unlawful for any person to be a grain dealer without securing a license as herein provided. In addition to the criminal penalties provided for herein, the Commissioner of Agriculture may apply to any superior court judge and the court may temporarily restrain or preliminarily or permanently enjoin any violation of this act.

Sec. 16. This act shall become effective May 1, 1974.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

S. B. 531

CHAPTER 666

AN ACT TO RESTRICT THE SALE OF SURPLUS WEAPONS BY THE STATE OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. Except as hereinafter provided, it shall be unlawful for any employee, officer or official of the State in the exercise of his official duty to sell or otherwise dispose of any pistol, revolver, shotgun or rifle to any person, firm, corporation, county or local governmental unit, law enforcement agency, or other legal entity.

Sec. 2. It shall be lawful for the Purchase and Contract Division of the Department of Administration, in the exercise of its official duty, to sell any weapon described in Section 1 hereof, to any county or local governmental unit law enforcement agency in the State; provided, however, that such law enforcement agency files a written statement, duly notarized, with the seller of said weapon certifying that such weapon is needed in law enforcement by such law enforcement agency.

Sec. 3. All weapons described in Section 1 hereof which are not sold as herein provided within one year of being declared surplus property, shall be destroyed by the Purchase and Contract Division of the Department of Administration.

Sec. 4. This act shall become effective 45 days after ratification.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

S. B. 545

CHAPTER 667

AN ACT TO AMEND G.S. 128-26(e) AND G.S. 135-4(e) SO AS TO ALLOW A PERSON TO RESTORE AN INACTIVE ACCOUNT IN EITHER RETIREMENT SYSTEM BY LUMP SUM PAYMENT REGARDLESS OF WHICH SYSTEM CLOSED THE ACCOUNT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 128-26(e), as the same appears in the 1971 Cumulative Supplement to the General Statutes, is hereby amended by adding at the end thereof, a new paragraph to read as follows:

"On and after July 1, 1973, a member whose account in the Teachers' and State Employees' Retirement System was closed on account of absence from service under the provisions of G.S. 135-3(3) and who subsequently became or becomes a member of this system with credit for five years of service, may thereafter repay in a lump sum the amount withdrawn from the Teachers' and State Employees' Retirement System plus regular interest thereon from the date of withdrawal through the year of repayment and thereby increase his creditable service in this system by the amount of creditable service lost when his account was closed."

Sec. 2. G.S. 135-4(e), as the same appears in the 1971 Cumulative Supplement to the General Statutes, is hereby amended by adding at the end thereof, a new paragraph to read as follows:

"On and after July 1, 1973, a member whose account in the North Carolina Local Governmental Employees' Retirement System was closed on account of absence from service under the provisions of G.S. 128-24(1a) and who subsequently became or becomes a member of this system with credit for five years of service, may thereafter repay in a lump sum the amount withdrawn from the North Carolina Local Governmental Employees' Retirement System plus regular interest thereon from the date of withdrawal through the year of repayment and thereby increase his creditable service in this system by the amount of creditable service lost when his account was closed."

Sec. 3. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

H. B. 174

CHAPTER 668

AN ACT TO CLARIFY THE AUTHORITY OF THE STATE TO MAKE PAYMENTS IN LIEU OF TAXES ON CERTAIN TIMBERLANDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-279 is rewritten to read as follows:

"§ 105-279. *Timberlands owned by the State; payments in lieu of taxes.*—(a) Any State department or agency that owns timberlands or that leases, controls, or administers State-owned timberlands, shall annually pay to each county in which the timberlands are situated payments in lieu of property taxes computed according to one of the following methods:

(1) Fifteen percent (15%) of the proceeds of the gross sales of trees, timber, pulpwood, pine needles and other forest products from the timberlands in the county during the calendar year; or

(2) The amount of tax that would be imposed on the timberlands, exclusive of improvements, in the county in which they are situated if the timberlands were taxable.

The State department or agency shall notify the county tax supervisor of its election with respect to each State forest on or before September 1, 1973, or within 30 days of the acquisition of additional timberlands.

When received, such payments in lieu of taxes shall be deposited in the county's general fund.

(b) The provisions of subsection (a), above, shall not apply to the proceeds of the sale of forest products directly paid to or received by the State Board of Education, any State educational institution, the Department of Mental Health, or the North Carolina Department of Agriculture from its research stations and experimental farmlands."

Sec. 2. This act shall become effective on July 1, 1973.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

H. B. 340

CHAPTER 669

AN ACT TO REPEAL SECTION 3 OF CHAPTER 1076 OF THE SESSION LAWS OF 1971 AND TO VALIDATE MUNICIPAL ZONING AND SUBDIVISION ORDINANCES.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of Chapter 1076 of the Session Laws of 1971 is repealed.

Sec. 2. Any city ordinance regularly adopted before January 1, 1972, under authority of general laws revised and reenacted in G.S. Chapter 160A, Article 19, or under authority of any city charter or local act concerning the same subject matter, is validated with respect to its application within the corporate limits of the city and as to its application within the extraterritorial jurisdiction of the city. Such an ordinance, and any city ordinance adopted since January 1, 1972, under authority of general laws revised and reenacted in G.S. Chapter 160A, Article 19, are hereby validated, notwithstanding the fact that such ordinances were not recorded pursuant to G.S. 160A-360(b) or G.S. 160A-364 and notwithstanding the fact that the adopting city council did not also adopt an ordinance defining or delineating by specific description the areas within its extraterritorial jurisdiction pursuant to G.S. 160A-360; provided that this act shall be deemed to validate ordinances of cities in Mecklenburg County only with respect to their application within the corporate limits of such cities.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

H. B. 436

CHAPTER 670

AN ACT TO CREATE A SCENIC AND RECREATION TRAILS SYSTEM AND TO PROVIDE FOR THE DESIGNATION, ADMINISTRATION, REGULATION, AND ACQUISITION OF SCENIC TRAILS AND TRAIL RIGHTS-OF-WAY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 113A of the General Statutes is hereby amended by adding thereto a new Article to read as follows:

“Article 4.

“North Carolina Trails System.

“§ 113A-50. *Short title.*—This Article shall be known and may be cited as the ‘North Carolina Trails System Act’.

“§ 113A-51. *Declaration of policy and purpose.*—(a) In order to provide for the ever-increasing outdoor recreation needs of an expanded population and in order to promote public access to, travel within, and enjoyment and appreciation of the outdoor, natural and remote areas of the State, trails should be established in natural, scenic areas of the State, and in and near urban areas.

(b) The purpose of this Article is to provide the means for attaining these objectives by instituting a State system of scenic and recreation trails, and by prescribing the methods by which, and standards according to which, components may be added to the system.

“§ 113A-52. *Definitions.*—Except as otherwise required by context, the following terms when used in this Article shall be construed respectively to mean:

(1) ‘Department’ means the North Carolina Department of Natural and Economic Resources.

(2) ‘Political subdivision’ means any county, any incorporated city or town, or other political subdivision.

(3) ‘Scenic easement’ means a perpetual easement in land which

a. is held for the benefit of the people of North Carolina,

b. is specifically enforceable by its holder or beneficiary, and

c. limits or obligates the holder of the servient estate, his heirs, and assigns with respect to their use and management of land and activities conducted thereon, the object of such limitations and obligations being the maintenance or enhancement of the natural beauty of the land in question or of areas affected by it.

(4) ‘Secretary’ means the Secretary of the North Carolina Department of Natural and Economic Resources, except as otherwise specified in this Article.

(5) ‘System’ means the ‘North Carolina Trails System’ as established in this Article and including all trails and trail segments, together with their rights-of-way, added by any of the procedures described in this Article.

“§ 113A-53. *Composition of trails system.*—The State system of trails shall be composed of:

(1) State Scenic Trails, which are defined as extended trails so located as to provide maximum potential for the appreciation of natural areas and for the conservation and enjoyment of the significant scenic, historic, natural, ecological, geological or cultural qualities of the areas through which such trails may pass.

(2) State Recreation Trails, which are defined as trails planned principally for recreational value and may include trails for foot travel, horseback, nonmotorized bicycles, nonmotorized water vehicles, and two-wheel and four-wheel-drive motorized vehicles. More than one of the aforesaid types of travel may be permitted on a single trail in the discretion of the Secretary.

(3) Connecting or side trails, which will provide additional points of public access to State Recreation or State Scenic Trails or which will provide connections between such trails.

“§ 113A-54. *Authority to designate trails.*—The Department may establish and designate State scenic and recreation trails on lands administered by the Department; or on lands under the jurisdiction of a State department, political subdivision, or private lands providing fee simple title, or lesser estates, scenic easements, easements of surface ingress and egress running with the land or leases are obtained from landowners through which a State Trail may pass.

“§ 113A-55. *North Carolina Trails Committee; composition; meetings and functions.*—(a) There is hereby created the North Carolina Trails Committee, which shall be advisory and consist of seven members appointed by the Secretary to serve without pay except that members are to be reimbursed for actual expenses incurred in the performance of their duties pursuant to G.S. 138-5. Initially, three members shall be appointed for two years, and four members for four years; thereafter each appointment shall be for four years. Two members shall be from the mountain section, two from the Piedmont

section, two from the coastal plain, and one at large. They shall as much as possible represent various trail users.

(b) The Committee shall meet in various sections of the State, not less than two times annually to advise the Department on all matters directly or indirectly pertaining to trails, their use, extent, location, and the other objectives and purposes of this Article.

(c) The Committee shall coordinate trail development among local governments, and shall assist local governments in the formation of their trail plans and advise the Department quarterly of its findings.

(d) The Secretary, with advice of the Committee, shall study trail needs and potentials, and make additions to the State Trails System as needed. He shall submit an annual report to the Governor and General Assembly on trail activities by the Department, including rights-of-way that have been established and on the program for implementing this act. Each report shall include a short statement on the significance of the various trails to the System. The Secretary shall make such rules and regulations as to trail development, management, and use that are necessary for the proper implementation of this Article.

“§ 113A-56. *Location of trails.*—The process of locating routes of trails to be added to the system shall be as follows:

For State Scenic Trails, the Secretary, after consulting with the Committee, shall recommend a route. For State Recreation Trails and for connecting or side trails, the Secretary, after consulting with the Committee, shall select the route. When a route shall transverse land within the jurisdiction of a governmental unit or political subdivision, the Department shall consult with such unit or such subdivision prior to its final determination of the location of the route. The selected route shall be compatible with preservation or enhancement of the environment it transverses. Reasonable effort shall be made to minimize any adverse effects upon adjacent landowners and users. Notice of the selected route shall be published by the Department in a newspaper of general circulation in the area in which the trail is located, together with appropriate maps and descriptions to be conspicuously posted at the appropriate courthouse. Such publication shall be prior to the designation of the trail by the Secretary.

“§ 113-57. *Scenic easements within right-of-way.*—Within the boundaries of the right-of-way, the Secretary of the North Carolina Department of Administration may acquire, on behalf of the State of North Carolina, lands in fee title, or interest in land in the form of scenic easements, cooperative agreements, easements of surface ingress and egress running with the land, leases, or less than fee estates. Acquisition of land or of interest therein may be by gift, purchased with donated funds or funds appropriated by the governmental agencies for this purpose, proceeds from the sale of bonds or exchange. Any change in value of land resulting from the grant of an easement shall be taken into consideration in the assessment of the land for tax purposes.

“§ 113A-58. *Trails within parks; conflict of laws.*—Any component of the System that is or shall become a part of any State Park, recreation area, wildlife management area, or similar area shall be subject to the provisions of this Article as well as any other laws under which the other areas are administered, and in the case of conflict between the provisions the more restrictive provisions shall apply.

“§ 113A-59. *Uniform trail markers.*—The Department, in consultation with the Committee, shall establish a uniform marker for trails contained in the System. An additional appropriate symbol characterizing specific trails may be included on the marker. The markers shall be placed at all access points, together with signs indicating the modes of locomotion that are prohibited for the trail, provided that where the trail constitutes a portion of a national scenic trail, use of the national scenic trail uniform marker shall be considered sufficient. The route of the trail and the boundaries of the right-of-way shall be adequately marked.

“§ 113A-60. *Administrative policy.*—The North Carolina Trails System shall be administered by the Department according to the policies and criteria set forth in this Article. The Department shall, in addition, have or designate the responsibility for maintaining the trails, building bridges, campsites, shelters, and related public-use facilities where required.

“§ 113A-61. *Incorporation in National Trails System.*—Nothing in this Article shall preclude a component of the State Trails System from becoming a part of the National Trails System. The Secretary shall coordinate the State Trails System with the National Trails System and is directed to encourage and assist any federal studies for inclusion of North Carolina trails in the National Trails System. The Department may enter into written cooperative agreements for joint federal-state administration of a North Carolina component of the National Trails System, provided such agreements for administration of land uses are not less restrictive than those set forth in this act.”

Sec. 2. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

H. B. 468

CHAPTER 671**AN ACT TO RESTRICT THE ACTIVITIES OF THE DEPARTMENT OF CORRECTIONS LAUNDRY SERVICES.**

The General Assembly of North Carolina enacts:

Section 1. Laundry services performed by the Department of Corrections may be provided only for agencies and instrumentalities of the State which are supported by State funds and for county or municipally controlled and supported hospitals presently being served by the Department of Corrections, or for which services have been contracted or applied for in writing, as of the effective date of this act.

Such services shall be limited to wet-washing, drying and ironing of flatwear or flatgoods such as towels, sheets and bedding, linens and those uniforms prescribed for wear by such institutions and further limited to only flatgoods or apparel owned, distributed or controlled entirely by such institutions and shall not include processing by any dry-cleaning method; provided, however, those garments and items presently being serviced by wet-washing, drying and ironing

may in the future, at the election of the Department of Corrections, be processed by a dry-cleaning method.

Sec. 2. This act shall become effective on and after May 22, 1973.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

H. B. 600

CHAPTER 672

AN ACT TO EXTEND THE HOME SOLICITATION SALE PROVISIONS OF CHAPTER 25A TO PRENEED PURCHASES OF CEMETERY MERCHANDISE AND SERVICES.

The General Assembly of North Carolina enacts:

Section 1. Section 25A-38(5) of the General Statutes is hereby amended by inserting before the word "utilized" the words "to be" and by inserting following the word "utilized" the words "within ten days."

Sec. 2. This act shall become effective on July 1, 1973.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

H. B. 797

CHAPTER 673

AN ACT TO PROVIDE FOR THE APPOINTMENT AND QUALIFICATIONS OF A COMMISSIONER OF MENTAL HEALTH AND FOR ADMINISTRATORS AND CHIEFS OF MEDICAL SERVICES OF MENTAL HOSPITALS AND RESIDENTIAL CENTERS FOR THE MENTALLY RETARDED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 122-1.3 as the same appears in the 1964 Replacement Volume 3B of the General Statutes is amended and rewritten to read:

"§ 122-1.3. *Commissioner of Mental Health.*—The Secretary of the Department of Human Resources shall appoint a Commissioner of Mental Health who shall serve at the pleasure of the Secretary. The Commissioner shall be a physician licensed to practice medicine in North Carolina. He shall have approved training in psychiatry and shall also have satisfactory training and experience in administration. His experience shall include at least five years of progressive experience in mental health or mental health related program administration. Certification in psychiatry by the American Board of Psychiatry and Neurology, Inc., may be substituted for two of the five years of required experience. The Commissioner of Mental Health shall be the chief executive officer of the State Department of Mental Health and shall be responsible for the efficient management, administration and operation of the Department in accordance with the provisions of this Chapter."

Sec. 2. G.S. 122-25 as the same appears in the 1971 Cumulative Supplement to Volume 3B of the General Statutes is amended and rewritten to read:

"§ 122-25. *Administrators and chiefs of medical services of mental hospitals and residential centers for the mentally retarded.*—(a) The Commissioner of Mental Health, with the approval of the Secretary of the Department of Human Resources, shall appoint an administrator for each mental hospital and each residential center for the mentally retarded in the Department of Mental

Health. This administrator shall have approved training and experience in the management of health care facilities. He shall be the chief executive officer of the facility to which he is appointed and, subject to the supervision, direction and control of the Commissioner of Mental Health, he shall be responsible for the management, administration and operation of that facility, to include the employment and discharge of all personnel at such facility.

(b) The Commissioner of Mental Health, with the approval of the Secretary of Human Resources, shall appoint a chief of medical services at each mental hospital and residential center for the mentally retarded in the Department of Mental Health. This individual shall be a physician duly licensed to practice medicine in North Carolina. As to the mental hospitals, the chief of medical services shall have approved training and experience in psychiatry. As to the centers for the mentally retarded, the chief of medical services shall have approved training in pediatrics or psychiatry. Subject to the supervision, direction and control of the Commissioner of Mental Health, the chief of medical services shall exercise supervision and direction over all medical and clinical services at his facility.

(c) Any question as to whether a particular function falls within the authority or responsibility of the administrator or the chief of medical services at a given facility will be submitted to the Commissioner of Mental Health who will decide the question."

Sec. 3. G.S. 122-1.4 as the same appears in the 1971 Cumulative Supplement to Volume 3B of the General Statutes is repealed.

Sec. 4. G.S. 122-1.5 is hereby repealed.

Sec. 5. G.S. 122-8.1 as the same appears in the 1964 Replacement Volume 3B of the General Statutes is amended to strike out "superintendent," where the same appears in line one thereof.

Sec. 6. G.S. 122-11.4 as the same appears in the 1971 Cumulative Supplement to Volume 3B is amended by striking out the word "superintendent" where the same appears in that section and substituting therefor the word "administrator".

Sec. 7. G.S. 122-13.1 as the same appears in the 1964 Replacement Volume 3B of the General Statutes is amended by striking out the words "superintendent of the appropriate State hospital" and substituting therefor the words "administrator of the appropriate State hospital acting upon the advice of the chief of medical services of that hospital".

Sec. 8. G.S. 122-14 as the same appears in the 1964 Replacement Volume 3B of the General Statutes is amended by striking out the word "superintendents" wherever it appears in that section and substituting therefor the word "administrators".

Sec. 9. G.S. 122-15 as the same appears in the 1964 Replacement Volume 3B of the General Statutes is amended and rewritten to read:

"§ 122-15. *Transfer of inmates to general wards.*—The administrators of Dorothea Dix Hospital and Cherry Hospital, acting upon advice of their respective chiefs of medical services, are hereby authorized, empowered and directed to transfer from the wards in said hospitals set apart for the dangerously insane to the general wards any of the inmates or prisoners therein who, in the judgment of the appropriate chief of medical services, have reached such a state of improvement in their mental condition as to justify such transfer."

Sec. 10. G.S. 122-24, as the same appears in the 1964 Replacement Volume 3B of the General Statutes is amended and rewritten to read:

“§ 122-24. *Administrators, chiefs of medical services and staff members not personally liable.*—No administrator, chief of medical services or any staff member under the supervision and direction of the administrator or chief of medical services of any State hospital shall be personally liable for any act or thing done under or in pursuance of any of the provisions of this Chapter.”

Sec. 11. G.S. 122-27 as the same appears in the 1964 Replacement Volume 3B of the General Statutes is amended by striking out the word “superintendent” wherever it appears in this section and substituting therefor the word “administrator”.

Sec. 12. G.S. 122-31 as the same appears in the 1964 Replacement Volume 3B of the General Statutes is amended by striking out the word “superintendent,” as it appears therein and substituting therefor “administrator, chief of medical services,”.

Sec. 12.1. G.S. 122-33 as the same appears in the 1964 Replacement Volume 3B of the General Statutes is rewritten to read:

“G.S. 122-33. *Appointment of employees as policemen who may arrest without warrant.*—The administrator of each mental hospital and each residential center for the mentally retarded and the superintendent of the North Carolina School for the Deaf are empowered to appoint such number of discreet employees of their respective hospitals, centers, or school as they may think proper, special policemen, and within the grounds of such hospital, center or school the said employees so appointed policemen shall have all the powers of policemen of incorporated towns. They shall have the right to arrest without warrant persons committing violations of the State law or the ordinances of that hospital, center or school, in their presence, and within the grounds of their hospital, center or school, and carry the offenders before a magistrate who shall proceed as in other criminal cases.”

Sec. 13. Article 3 of Chapter 122 as the same appears in the 1964 Replacement Volume 3B of the General Statutes and the 1971 Cumulative Supplement thereto is amended by striking out the word “superintendent” wherever that word appears therein and substituting therefor the word “administrator”.

Sec. 14. G.S. 122-56 as the same appears in the 1964 Replacement Volume 3B of the General Statutes is amended as follows:

“(1) The word ‘superintendent’ where it appears in lines 9, 16, 21, and 24 is stricken out and the word ‘administrator’ is substituted therefor.

(2) The word ‘superintendent’ where it appears in line 19 is stricken out and the words ‘chief of medical services’ are substituted therefor.

(3) The words ‘superintendent may, if he thinks it a proper application,’ where they appear in lines 10 and 11 are stricken out and the words ‘administrator may, if the chief of medical services thinks it is a proper application,’ are substituted therefor.”

Sec. 15. G.S. 122-58(a) as the same appears in the 1964 Replacement Volume 3B of the General Statutes is amended by striking out the word “superintendent” and substituting therefor the word “administrator”.

Sec. 16. G.S. 122-63 as the same appears in the 1971 Cumulative Supplement to the 1964 Replacement Volume 3B of the General Statutes is

amended by striking out the word "superintendent" where that word appears therein and substituting therefor the word "administrator".

Sec. 17. G.S. 122-63.1 as the same appears in the 1971 Cumulative Supplement to Volume 3B of the General Statutes is amended by striking out the word "superintendent" where it appears therein and substituting therefor the words "administrator or chief of medical services".

Sec. 18. G.S. 122-65 as the same appears in the 1964 Replacement Volume 3B of the General Statutes is amended as follows:

"(1) The word 'superintendent' as it appears in line 2 is stricken out and the word 'administrator' is substituted therefor.

(2) The word 'superintendent' as it appears in line 4 and in line 8 is stricken out and the words 'chief of medical services' is substituted therefor in each instance."

Sec. 19. G.S. 122-65.4 as the same appears in the 1964 Replacement Volume 3B of the General Statutes is amended by striking out the word "superintendent" and substituting therefor the word "administrator".

Sec. 20. G.S. 122-83 as the same appears in the 1971 Cumulative Supplement to Volume 3B of the General Statutes is amended by striking out the words "the superintendent and medical director" where they appear therein and substituting therefor the words "the administrator and chief of medical services".

Sec. 21. G.S. 122-84 as the same appears in the 1964 Replacement Volume 3B of the General Statutes is amended by striking out the word "superintendent" wherever that word appears therein and substituting therefor the word "administrator".

Sec. 22. G.S. 122-86 as the same appears in the 1964 Replacement Volume 3B of the General Statutes is repealed.

Sec. 23. G.S. 122-87 as the same appears in the 1964 Replacement Volume 3B of the General Statutes is amended by striking out the word "superintendent" wherever that word appears therein and substituting therefor the word "administrator".

The administrator may take the actions relative to discharge of patients as authorized by this section only after receiving the advice of the chief of medical services of his hospital and the action taken by the administrators shall be in accordance with the advice which he has received from the chief of medical services.

Sec. 24. G.S. 122-91 as the same appears in the 1971 Cumulative Supplement to Volume 3B of the General Statutes is amended as follows:

"(1) The words 'the superintendent of the State hospital concerned shall report his findings and recommendations' as they appear in lines 9 and 10 are stricken out and the words 'the administrator of the State hospital concerned shall forward the findings and recommendations of his medical personnel' are substituted therefor.

(2) The words 'the superintendent of the State hospital concerned shall report his findings' as they appear in line 18 are stricken out and the words 'the administrator of the State hospital concerned shall forward the findings of his medical personnel' are substituted therefor."

Sec. 25. G.S. 122-66.1 as the same appears in the 1964 Replacement Volume 3B of the General Statutes is amended by striking out the word "superintendent" where it appears in lines 1 and 9 thereof and substituting

therefor the word “administrator” and by striking out subdivision (1) and substituting therefor the following:

“(1) The administrator shall prepare a certificate of discharge and in said certificate shall record the fact that his chief of medical services or other medical personnel have found that the patient is not incompetent or that such patient has been restored to competency in all respects or that such patient is not mentally ill or inebriate and no longer in need of care and treatment in a State hospital for the mentally ill or inebriate.”

Sec. 26. G.S. 122-67 as the same appears in the 1964 Replacement Volume 3B of the General Statutes is amended as follows:

“(1) The word ‘superintendent’ wherever the same appears in this section is stricken out and the word ‘administrator’ is substituted therefor.

(2) The words ‘in his discretion’ as they appear in line 8 are stricken out.

(3) The following paragraph is added at the end of G.S. 122-67:

“The administrator may take the actions relative to discharge of patients as authorized by this section only after receiving the advice of the chief of medical services of his hospital and the action taken by the administrators shall be in accordance with the advice which he has received from the chief of medical services.”

Sec. 27. G.S. 122-67.1 as the same appears in the 1964 Replacement Volume 3B of the General Statutes is amended and rewritten to read:

“§ 122-67.1. *Release of patients from the psychiatric training and research center at North Carolina Memorial Hospital in Chapel Hill.*—The Director of the Inpatient Service may release patients on probation in the same manner as provided for the administrator of a State hospital in Section 122-67, except insofar as Section 122-67 requires the advice of the chief of medical services. The director may also discharge such patients as in his opinion are no longer in need of hospital care.”

Sec. 28. G.S. 122-68 as the same appears in the 1964 Replacement Volume 3B of the General Statutes is amended and rewritten to read:

“§ 122-68. *Administrator may release patient temporarily.*—Each administrator may, for the space of 30 days, release upon probation any patient, when in the opinion of the chief of medical services of the hospital this release would not prove injurious to the patient or dangerous to the community.”

Sec. 29. G.S. 122-68.1 as the same appears in the 1964 Replacement Volume 3B of the General Statutes is amended by striking out the word “Superintendent” as it appears in the catchline and the word “superintendent” as it appears in lines 2 and 3 of this section and substituting the words “Administrator” and “administrator” therefor respectively.

Sec. 30. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

H. B. 944

CHAPTER 674

AN ACT TO CLARIFY STATE POLICY IN CERTAIN JUVENILE CASES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-286 (3) through (5) is rewritten to read as follows:

“(3) In the case of any child who is alleged to be delinquent or undisciplined and where the court finds it necessary that such child be detained in secure custody for the protection of the community or in the best interest of the child before or after a hearing on the merits of the case, the court may order that such child be detained in a juvenile detention home as provided in G.S. 110-24, or if no juvenile detention home is available, in a separate section of a local jail which meets the requirements of G.S. 110-24, provided the court shall notify the parent, guardian or custodian of the child of such detention. In order to provide authority for approval of detention care when the district court is not in session, the chief district judge or the district judge having primary responsibility for hearing juvenile cases in the district may delegate the court's authority to detain by administrative order which shall be filed in the office of the clerk of superior court. Such administrative order shall specify which judicial officials shall be contacted for approval of detention care in the following order: any available district judge; the chief juvenile probation officer or any juvenile probation officer; or the clerk or assistant clerk of superior court. No child shall be held in any juvenile detention home or jail for more than five calendar days without a hearing to determine the need for continued detention under the special procedures established by this Article. If the judge orders that the child continue in the detention home or jail after such a hearing to determine the need for continued detention, the court order shall be in writing with appropriate findings of fact.

(4) In the case of any child who is delinquent or undisciplined, the court shall consider the following summary of State policy in relation to such child in order to design an appropriate disposition to meet the needs of the child and to achieve the objectives of the State in exercising these two categories of juvenile jurisdiction: The initial approach should involve working with the child in his own home so that the appropriate primary resources (such as the parents, school and other community services) may be involved in child care, supervision and treatment according to the needs of the child. Thus, the court should arrange for appropriate community-level services to be provided to the child and/or his family in order to strengthen his own home, such as juvenile probation services, mental health services, educational services, social services and others as may be appropriate. In cases where it is necessary to place a delinquent child outside his own home, first consideration should be given to residential resources in the child's own community, such as a relative's home, a foster home, small group homes, halfway houses, group child care, and others as may be available. A child should not be committed to training school or to any other institution solely for unlawful absence from school; such a child should generally be helped through community level resources. A commitment to training school or to any State institution is generally appropriate only for a child over 10 years of age whose offense would be a crime if committed by an adult and where the child's behavior constitutes some threat to the safety of persons or property in the community so that the child needs to be removed from the community for the

protection of the community. After considering these policy objectives, the court may:

a. Continue the case in order to allow the family an opportunity to meet the needs of the child through more adequate supervision or placement in a private or specialized school, or placement with a relative, or through some other plan approved by the court;

b. Place the child on probation for whatever period of time the court may specify, and subject to such conditions of probation as the court finds are related to the needs of the child and which the court shall specify, under the supervision of the juvenile probation officer;

c. Excuse the child from compliance with the compulsory school attendance law, provided the court finds that suitable alternative plans can be arranged by the family or through other community resources for one of the following: an education related to the needs or abilities of the child, such as (but not limited to) vocational education or special education; a suitable plan of supervision or placement; or some other plan that the court finds to be in the best interest of the child.

(5) In the case of a child who is delinquent, the court may commit the child to the Office of Youth Development, Department of Social Rehabilitation and Control, for placement in one of the residential programs operated by the Department, provided the court finds that such child meets each of the following four criteria for commitment to an institution and supports such finding with appropriate findings of fact in the order of commitment as follows:

a. The child has not or would not adjust in his own home on probation or while other services are being provided;

b. Community-based residential care has already been utilized or would not be successful or is not available;

c. The child's behavior constitutes some threat to persons or property in the community or to the child's own safety or personal welfare.

d. If the child is less than 10 years of age or his offense would not be a crime if committed by an adult, the court must find that all community-level alternatives for services and residential care have been exhausted.

Said commitment shall be for a definite term or an indefinite term, not to extend beyond the eighteenth birthday of the child, as the Department or its administrative personnel may find to be in the best interest of the child. The Department, or its administrative personnel, shall have final authority to determine when any child who has been admitted to any program operated by the Department has sufficiently benefitted from the program as to be ready for release. If the Department finds that any child committed to its care is not suitable for any program operated by the Department, the Department shall have the right to make a motion in the cause so that the court may enter an alternative disposition."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

H. B. 957

CHAPTER 675

AN ACT TO AMEND G.S. 115-11(13) DIRECTING THE STATE BOARD OF EDUCATION TO PROVIDE SICK LEAVE FOR ALL PUBLIC SCHOOL EMPLOYEES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115-11(13) is amended by rewriting the first sentence so that the same shall read as follows:

“The board shall provide for a minimum of five days per school term of sick leave with pay for all public school employees and shall promulgate rules and regulations providing for necessary substitutes on account of said sick leave.”

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

H. B. 959

CHAPTER 676

AN ACT TO AMEND CHAPTER 1 OF THE GENERAL STATUTES BY REWRITING THE PROVISIONS RELATING TO ARBITRATION AND AWARD.

The General Assembly of North Carolina enacts:

Section 1. Chapter 1 of the General Statutes is hereby amended as follows:

(1) By repealing G.S. 1-544 through G.S. 1-567; and

(2) By inserting therein a new Article 45A to read as follows:

“§ 1-567.1. *Arbitration agreements made valid, irrevocable and enforceable; scope.*—(a) Two or more parties may agree in writing to submit to arbitration any controversy existing between them at the time of the agreement, or they may include in a written contract a provision for the settlement by arbitration of any controversy thereafter arising between them relating to such contract or the failure or refusal to perform the whole or any part thereof. Such agreement or provision shall be valid, enforceable, and irrevocable except with the consent of all the parties, without regard to the justifiable character of the controversy.

(b) This Article shall not apply to:

(1) Any agreement or provision to arbitrate in which it is stipulated that this Article shall not apply or to any arbitration or award thereunder;

(2) Arbitration agreements between employers and employees or between their respective representatives, unless the agreement provides that this Article shall apply.

“§ 1-567.2. *Proceedings to compel or stay arbitration.*—(a) On application of a party showing an agreement described in G.S. 1-567.1, and the opposing party's refusal to arbitrate, the court shall order the parties to proceed with arbitration, but if the opposing party denies the existence of the agreement to arbitrate, the court shall proceed summarily to the determination of the issue so raised and shall order arbitration if found for the moving party, otherwise, the application shall be denied.

(b) On application, the court may stay an arbitration proceeding commenced or threatened on a showing that there is no agreement to arbitrate. Such an issue, when in substantial and bona fide dispute, shall be forthwith and

summarily tried and the stay ordered if found for the moving party. If found for the opposing party, the court shall order the parties to proceed to arbitration.

(c) If an issue referable to arbitration under the alleged agreement is involved in an action or proceeding pending in a court having jurisdiction to hear applications under subsection (a) of this section, the application shall be made therein. Otherwise the application may be made in any court of competent jurisdiction.

(d) Any action or proceeding involving an issue subject to arbitration shall be stayed if an order for arbitration or an application therefor has been made under this section or, if the issue is severable, the stay may be with respect thereto only. When the application is made in such action or proceeding, the order for arbitration shall include such stay.

(e) An order for arbitration shall not be refused or a stay of arbitration granted on the ground that the claim in issue lacks merit or bona fides or because any fault or grounds for the claim sought to be arbitrated have not been shown.

“§ 1-567.3. *Appointment of arbitrators by court.*—If the arbitration agreement provides a method of appointment of arbitrators, this method shall be followed. In the absence thereof, or if the agreed method fails or for any reason cannot be followed, or when an arbitrator appointed fails or is unable to act and his successor has not been duly appointed, the court on application of a party shall appoint one or more arbitrators. An arbitrator so appointed has all the powers of one specifically named in the agreement.

“§ 1-567.4. *Majority action by arbitrators.*—The powers of the arbitrators may be exercised by a majority unless otherwise provided by the agreement or by this act.

“§ 1-567.5. *Hearing.*—Unless otherwise provided by the agreement:

- (1) The arbitrators shall appoint a time and place for the hearing and cause notification to the parties to be served personally or by registered mail not less than five days before the hearing. Appearance at the hearing waives such notice. The arbitrators may adjourn the hearing from time to time as necessary and, on request of a party and for good cause, or upon their own motion may postpone the hearing to a time not later than the date fixed by the agreement for making the award unless the parties consent to a later date. The arbitrators may hear and determine the controversy upon the evidence produced notwithstanding the failure of a party duly notified to appear. The court on application may direct the arbitrators to proceed promptly with the hearing and determination of the controversy.
- (2) The parties are entitled to be heard, to present evidence material to the controversy and to cross-examine witnesses appearing at the hearing.
- (3) The hearing shall be conducted by all the arbitrators but a majority may determine any question and render a final award. If, during the course of the hearing, an arbitrator for any reason ceases to act, the remaining arbitrator or arbitrators appointed to act as neutrals may continue with the hearing and determination of the controversy.
- (4) Upon the request of any party or any arbitrator, the arbitrators shall cause to be made a record of the testimony and evidence introduced at the hearing.

“§ 1-567.6. *Representation by attorney.*—A party has the right to be represented by an attorney at any proceeding or hearing under this act. A waiver thereof prior to the proceeding or hearing is ineffective.

“§ 1-567.7. *Witnesses, subpoenas, depositions.*—(a) The arbitrators may issue subpoenas for the attendance of witnesses and for the production of books, records, documents and other evidence, and shall have the power to administer oaths. Subpoenas so issued shall be served, and upon application to the court by a party or the arbitrators, enforced, in the manner provided by law for the service and enforcement of subpoenas in a civil action.

(b) On application of a party and for use as evidence, the arbitrators may permit a deposition to be taken, in the manner and upon the terms designated by the arbitrators, of a witness who cannot be subpoenaed or is unable to attend the hearing.

(c) All provisions of law compelling a person under subpoena to testify are applicable.

(d) Fees for attendance as a witness shall be as provided in G.S. 7A-314.

“§ 1-567.8. *Award.*—(a) The award shall be in writing and signed by the arbitrators joining in the award. The arbitrators shall deliver a copy to each party personally or by registered mail, or as provided in the agreement.

(b) An award shall be made within the time fixed therefor by the agreement or, if not so fixed, within such time as the court orders on application of a party. The parties may extend the time in writing either before or after the expiration thereof. A party waives the objection that an award was not made within the time required unless he notifies the arbitrators of his objection prior to the delivery of the award to him.

“§ 1-567.9. *Change of award by arbitrators.*—On application of a party or, if an application to the court is pending under G.S. 1-567.11, 1-567.12 or 1-567.13, on submission to the arbitrators by the court under such conditions as the court may order, the arbitrators may modify or correct the award upon the grounds stated in subdivisions (1) and (3) of subsection (a) of G.S. 1-567.13, or for the purpose of clarifying the award. The application shall be made within 20 days after delivery of the award to the applicant. Written notice thereof shall be given forthwith to the opposing party, stating he must serve his objections thereto, if any, within 10 days from the notice. The award so modified or corrected is subject to the provisions of G.S. 1-567.11, 1-567.12 and 1-567.13.

“§ 1-567.10. *Fees and expenses of arbitration.*—Unless otherwise provided in the agreement to arbitrate, the arbitrators' expenses and fees, together with other expenses, not including counsel fees, incurred in the conduct of the arbitration, shall be paid as provided in the award.

“§ 1-567.11. *Confirmation of an award.*—Upon application of a party, the court shall confirm an award, unless within the time limits hereinafter imposed grounds are urged for vacating or modifying or correcting the award, in which case the court shall proceed as provided in G.S. 1-567.12 and 1-567.13.

“§ 1-567.12. *Vacating an award.*—(a) Upon application of a party, the court shall vacate an award where:

- (1) The award was procured by corruption, fraud or other undue means;
- (2) There was evident partiality by an arbitrator appointed as a neutral or corruption in any of the arbitrators or misconduct prejudicing the rights of any party;

(3) The arbitrators exceeded their powers;

(4) The arbitrators refused to postpone the hearing upon sufficient cause being shown therefor or refused to hear evidence material to the controversy or otherwise so conducted the hearing, contrary to the provisions of G.S. 1-567.5, as to prejudice substantially the rights of a party; or

(5) There was no arbitration agreement and the issue was not adversely determined in proceedings under G.S. 1-567.2 and the party did not participate in the arbitration hearing without raising the objection; but the fact that the relief was such that it could not or would not be granted by a court of law or equity is not ground for vacating or refusing to confirm the award.

(b) An application under this section shall be made within 90 days after delivery of a copy of the award to the applicant except that, if predicated upon corruption, fraud or other undue means, it shall be made within 90 days after such grounds are known or should have been known.

(c) In vacating the award on grounds other than stated in clause(5) of subsection(a) the court may order a rehearing before new arbitrators chosen as provided in the agreement, or in the absence thereof, by the court in accordance with G.S. 1-567.3, or, if the award is vacated on grounds set forth in clauses(3) or (4) of subsection(a) the court may order a rehearing before the arbitrators who made the award or their successors appointed in accordance with G.S. 1-567.3. The time within which the agreement requires the award to be made is applicable to the rehearing and commences from the date of the order.

(d) If the application to vacate is denied and no motion to modify or correct the award is pending, the court shall confirm the award.

“§ 1-567.13. *Modification or correction of award.*—(a) Upon application made within 90 days after delivery of a copy of the award to the applicant, the court shall modify or correct the award where:

(1) There was an evident miscalculation of figures or an evident mistake in the description of any person, thing or property referred to in the award;

(2) The arbitrators have awarded upon a matter not submitted to them and the award may be corrected without affecting the merits of the decision upon the issues submitted; or

(3) The award is imperfect in a matter of form, not affecting the merits of the controversy.

(b) If the application is granted, the court shall modify and correct the award so as to effect its intent and shall confirm the award as so modified and corrected. Otherwise, the court shall confirm the award as made.

(c) An application to modify or correct an award may be joined in the alternative with an application to vacate the award.

“§ 1-567.14. *Judgment or decree on award.*—Upon the granting of an order confirming, modifying or correcting an award, judgment or decree shall be entered in conformity therewith and be docketed and enforced as any other judgment or decree. Costs of the application and of the proceedings subsequent thereto, and disbursements may be awarded by the court.

“§ 1-567.15. *Applications to court.*—Except as otherwise provided, an application to the court under this act shall be by motion and shall be heard in the manner and upon the notice provided by law or rule of court for the making and hearing of motions. Unless the parties have agreed otherwise, notice of an

initial application for an order shall be served in the manner provided by law for the service of a summons in an action.

“§ 1-567.16. *Court, jurisdiction.*—The term ‘court’ means any court of competent jurisdiction of this State. The making in this State of an agreement described in G.S. 1-567.11, or any agreement providing for arbitration in this State or under the laws thereof, confers jurisdiction on the court to enforce the agreement under this act and to enter judgment on an award thereunder.

“§ 1-567.17. *Appeals.*—(a) An appeal may be taken from:

- (1) An order denying an application to compel arbitration made under G.S. 1-567.2;
- (2) An order granting an application to stay arbitration made under G.S. 1-567.2(b);
- (3) An order confirming or denying confirmation of an award;
- (4) An order modifying or correcting an award;
- (5) An order vacating an award without directing a rehearing; or
- (6) A judgment or decree entered pursuant to the provisions of this act.

(b) The appeal shall be taken in the manner and to the same extent as from orders or judgments in a civil action.

“§ 1-567.18. *Act not retroactive.*—This act applies only to agreements made on or after August 1, 1973.

“§ 1-567.19. *Uniformity of interpretation.*—This act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

“§ 1-567.20. *Short title.*—This Article may be cited as the Uniform Arbitration Act.”

Sec. 2. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 3. This act shall become effective August 1, 1973.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

H. B. 980

CHAPTER 677

AN ACT TO AMEND G.S. 113-109(a) WITH RESPECT TO REVOCATION OF HUNTING LICENSES.

The General Assembly of North Carolina enacts:

Section 1. Subsection (a) of G.S. 113-109 is hereby amended by deleting from the fifth sentence and twenty-fourth line of said subsection the words “period for which the license was issued” and by inserting in lieu thereof the words “hunting license year during which such conviction occurred”.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

H. B. 988

CHAPTER 678

AN ACT TO AMEND G.S. 7A-102 TO AUTHORIZE DEPUTY CLERKS OF SUPERIOR COURT TO TAKE ACKNOWLEDGMENTS OF ATTESTATIONS OF WILLS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-102(b) is amended in the sentence, after “clerk’s office”, by inserting “, to take the proofs and examinations of the witnesses touching the execution of a will as required by G.S. 31-17,”.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

H. B. 1003

CHAPTER 679

AN ACT TO PROVIDE STATE REMEDIES FOR VICTIMS OF ODOMETER ALTERATION.

The General Assembly of North Carolina enacts:

Section 1. The General Statutes are hereby amended by adding a new Article to Chapter 20, to read as follows:

“Article 15.

“Vehicle Mileage Act.

“§ 20-401. *Purpose.*—This act shall provide State remedies for persons injured by motor vehicle odometer alteration, and to provide purchasers of motor vehicles with information to assist them in determining the condition and value of such vehicles. Such remedies shall be in addition to remedies provided by the federal odometer law. (Motor Vehicle Information and Cost Savings Act, Public Law 92-513, 86 Stat. 947, enacted October 20, 1972).

“§ 20-402. *Definitions.*—As used in this Article:

(1) The term ‘odometer’ means an instrument for measuring and recording the actual distance a motor vehicle travels while in operation; but shall not include any auxiliary odometer designed to be reset by the operator of the motor vehicle for the purpose of recording mileage on trips.

(2) The term ‘repair and replacement’ means to restore to a sound working condition by replacing the odometer or any part thereof or by correcting what is inoperative.

(3) The term ‘transfer’ means to change ownership by purchase, gift, or any other means.

(4) The term ‘transferor’ means any person who transfers his ownership in a motor vehicle by sale, gift or any means other than by creation of a security interest.

(5) The term ‘transferee’ means any person to whom the ownership in a motor vehicle is transferred by purchase, gift, or any means other than by creation of a security interest.

“§ 20-403. *Unlawful devices.*—It is unlawful for any person knowingly to advertise for sale, to sell, to use, or to install or to have installed, any device which causes an odometer to register any mileage other than the true mileage driven. For purposes of this section, the true mileage driven is that mileage driven by the vehicle as registered by the odometer within the manufacturer’s designed tolerance.

“§ 20-404. *Unlawful change of mileage.*—It is unlawful for any person or his agent to disconnect, reset, or alter the odometer of any motor vehicle with the intent to change the number of miles indicated thereon.

“§ 20-405. *Operation with intent to defraud.*—It is unlawful for any person with the intent to defraud to operate a motor vehicle on any street or highway knowing that the odometer of such vehicle is disconnected or nonfunctional.

“§ 20-406. *Conspiracy.*—No person shall conspire with any other person to violate Sections 403, 404, 405, 407, or 408.

“§ 20-407. *Lawful service, repair, or replacement.*—Nothing in this act shall prevent the service, repair, or replacement of an odometer, provided the mileage indicated thereon remains the same as before the service, repair, or replacement. Where the odometer is incapable of registering the same mileage as before such service, repair, or replacement, the odometer shall be adjusted to read zero and a notice in writing shall be attached to the left door frame of the vehicle by the owner or his agent specifying the mileage prior to repair or replacement of the odometer and the date on which it was repaired or replaced. Any removal or alteration of such notice so affixed shall be unlawful.

“§ 20-408. *Disclosure requirements.*—(a) In connection with the transfer of a motor vehicle, the transferor shall deliver to the transferee, prior to execution of any transfer of ownership document, a single written statement which contains the following:

- (1) the odometer reading at the time of the transfer;
- (2) the date of the transfer;
- (3) the transferor's name and current address;
- (4) the identity of the vehicle, including its make, model, body type, its vehicle identification number, and the license plate number most recently used on the vehicle;
- (5) a statement that the mileage is unknown if the transferor knows the odometer reading differs from the number of miles the vehicle has actually traveled, and that the difference is greater than that caused by odometer calibration error;
- (6) a statement describing each known alteration of the odometer reading, including date, person making the alteration, and approximate number of miles removed by the alteration; and
- (7) disclosure of excess mileage when vehicle is known to have exceeded one hundred thousand miles and the odometer records only five whole-mile digits.

(b) A copy of each written disclosure must be forwarded to the Department of Motor Vehicles, as a condition precedent to the reregistration of the vehicle. The odometer reading at the time of transfer, as stated on the written disclosure, shall be recorded on the new certificate of title by the Department.

(c) It shall be unlawful for any transferor to violate any rules under this section or to knowingly give a false statement to a transferee in making any disclosure required by such rules.

(d) The provisions of this disclosure statement section shall not apply to the following transfers:

- (1) a vehicle having a gross vehicle weight rating of more than 16,000 pounds;
- (2) a vehicle that is not self-propelled;

(3) a vehicle that is 25 years old or older; or

(4) a new vehicle prior to its first transfer for purposes other than resale.

“§ 20-409. *Private civil action.*—(a) Any person who, with intent to defraud, violates any requirement imposed under this act shall be liable in an amount equal to the sum of:

(1) three times the amount of actual damages sustained or one thousand five hundred dollars (\$1,500), whichever is the greater; and

(2) in the case of any successful action to enforce the foregoing liability, the costs of the action together with reasonable attorney fees as determined by the court.

(b) An action to enforce any liability created under subsection (a) of this section, may be brought in any court of the trial division of the General Court of Justice of the State of North Carolina within two years from the date on which the liability arises.

“§ 20-410. *Injunctive enforcement.*—Upon petition by the Attorney General of North Carolina, a violation of this act may be enjoined as an unfair and deceptive trade practice, as prohibited by G.S. 75-1.1.

“§ 20-411. *Criminal offense.*—Any person, firm or corporation violating any provision of this act shall be guilty of a misdemeanor.”

Sec. 2. G.S. 20-183.2 is hereby amended by adding a new subsection to read as follows:

“(e) On and after January 1, 1974, each motor vehicle safety inspection certificate shall contain, on the portion readable from the vehicle interior, the following information:

(1) the date of the current inspection;

(2) the odometer reading at the time of the current inspection;

(3) the signature, initials or other identification of the person making the inspection and affixing the certificate to the windshield.”

Sec. 3. This act shall become effective on September 1, 1973.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

H. B. 1004

CHAPTER 680

AN ACT TO REWRITE CHAPTER 10 OF THE GENERAL STATUTES PERTAINING TO THE APPOINTMENT OF NOTARIES PUBLIC.

The General Assembly of North Carolina enacts:

Section 1. Chapter 10 of the General Statutes of North Carolina is hereby rewritten to read as follows:

“§ 10-1. *Appointment and commission; term of office; revocation of commission.*—The Secretary of State may, from time to time, at his discretion, appoint one or more fit persons in every county to act as notaries public and shall issue to each a commission upon payment of a fee of ten dollars (\$10.00). The commission shall show that it is for a term of five years and shall show the effective date and the date of expiration. The term of the commission shall be computed by including the effective date and shall end at midnight of the day preceding the anniversary of the effective date, five years thereafter. The commission shall be sent to the register of deeds of the county in which the appointee lives and a copy of the letter of transmittal to the register of deeds shall be sent to the appointee concerned. The commission shall be retained by

the register of deeds until the appointee has qualified in the manner provided in G.S. 10-2.

Any commission so issued by the Secretary of State or his predecessor, shall be revocable by him in his discretion upon complaint being made against such notary public and when he shall be satisfied that the interest of the public will be best served by the revocation of said commission. Whenever the Secretary of State shall have revoked the commission of any notary public appointed by him, or his predecessor in office, it shall be his duty to file with the register of deeds in the county of such notary public a copy of said order and mail a copy of same to said notary public.

Any person holding himself out to the public as a notary public, or any person attempting to act in such capacity after his commission shall have been revoked by the Secretary of State, shall be guilty of a misdemeanor and upon conviction shall be fined or imprisoned, or both, in the discretion of the court.

“§ 10-2. *To qualify before register of deeds, record of qualification.*—Upon appearing before the register of deeds to which their commissions were delivered, the notaries shall be duly qualified by taking before the register an oath of office, and the oaths prescribed for officers. Following the administration of the oaths of office, the notary shall place his signature in a book designated as ‘The Record of Notaries Public’. The Record of Notaries Public shall contain the name of the notary, the signature of the notary, the effective date and expiration date of the commission, the date the oath was administered, and the date of revocation if the commission is revoked by the Secretary of State. The information contained in The Record of Notaries Public shall constitute the official record of the qualification of notaries public, and the register of deeds shall deliver the commission to the notary following his qualification and notify the Secretary of State of such qualification.

“§ 10-3. *Clerks notaries ex officio; may certify own seals.*—The clerks of the superior court may act as notaries public, in their several counties, by virtue of their office as clerks, and may certify their notarial acts under the seals of their respective courts.

“§ 10-4. *Register of deeds notary ex officio with respect to certain instruments; to use seal of office.*—With respect to instruments offered for registration in their county, the register of deeds and his assistants and deputies may act as notaries public by virtue of their office, and may certify their notarial acts under the seal of the office of the register of deeds.

“§ 10-5. *Powers of notaries public.*—(a) Subject to the exception stated in subsection (c), a notary public commissioned under the laws of this State acting anywhere in this State may:

- (1) Take and certify the acknowledgment or proof of the execution or signing of any instrument or writing except a contract between a husband and wife governed by the provisions of G.S. 52-6;
- (2) Take affidavits and depositions;
- (3) Administer oaths and affirmations, including oaths of office, except when such power is expressly limited to some other public officer;
- (4) Protest for nonacceptance or nonpayment, notes, bills of exchange and other negotiable instruments; and
- (5) Perform such acts as the law of any other jurisdiction may require of a notary public for the purposes of that jurisdiction.

(b) Any act within the scope of subsection (a) performed in another jurisdiction by a notary public of that jurisdiction has the same force and effect in this State as fully as if such act were performed in this State by a notary public commissioned under the laws of this State.

(c) A notary public who, individually or in any fiduciary capacity, is a party to any instrument, cannot take the proof or acknowledgment of himself in such fiduciary capacity or of any other person thereto.

(d) A notary public who is a stockholder, director, officer, or employee of a corporation is not disqualified to exercise any power, which he is authorized by this section to exercise, with respect to any instrument or other matter to which such corporation is a party or in which it is interested unless he is individually a party thereto.

“§ 10-6. *May exercise powers in any county.*—Notaries public have full power and authority to perform the functions of their office in any and all counties of the State, and full faith and credit shall be given to any of their official acts wheresoever the same shall be made and done.

“§ 10-7. *Certificates of official character.*—The Secretary of State and the register of deeds in the county in which the notary public qualified may certify to the official character and authority of such notary public.

“§ 10-8. *Fees of notaries.*—Notaries public shall be allowed the following fees:

- | | |
|--|--------|
| (1) Taking and certifying the acknowledgment or proof of the execution or signing of any instrument or writing | \$0.50 |
| (2) Taking affidavits | 0.50 |
| (3) Administering oaths (except that oaths of office shall be administered to public officials without charge) | 1.00 |

“§ 10-9. *Official acts of notaries public; signatures; appearance of names; notarial stamps or seals; expiration of commissions.*—Official acts of notaries public in the State of North Carolina shall be attested:

- (1) By their proper signatures;
- (2) By the readable appearance of their names, either from their signatures or otherwise;
- (3) By the clear and legible appearance of their notarial stamps or seals;
- (4) By a statement of the date of expiration of their commissions; provided, that the failure to comply with the provisions of subdivisions (2) and (4) shall not invalidate their official acts.

“§ 10-10. *Notarial stamp or seal.*—A notary public shall provide and keep an official stamp or seal which shall clearly show and legibly reproduce under photographic methods, when embossed, stamped, impressed or affixed to a document, the name of the notary, the name of the county in which appointed and qualified, the words ‘North Carolina’ or an abbreviation thereof, and the words ‘Notary Public’. It shall be the duty of a notary public to replace a seal which has become so worn that it can no longer clearly show or legibly reproduce under photographic methods the information required by this section. Provided, that a notary public appointed prior to July 1, 1973, who has adopted and is using a seal which does not meet the requirements of this section, shall be entitled to continue to use such seal until the expiration of his current commission.

“§ 10-11. *Acts of minor notaries validated.*—All acts of notaries public for the State of North Carolina who were not yet 21 years of age at the time of the performance of such acts are hereby validated; and in every case where deeds or other instruments have been acknowledged before such notary public who was not yet 21 years of age at the time of taking of said acknowledgment, such acknowledgment taken before such notary public is hereby declared to be sufficient and valid.

“§ 10-12. *Acts of certain notaries prior to qualification validated.*—All acknowledgments taken and other official acts done by any person who has heretofore been appointed as a notary public, but who at the time of acting had failed to qualify as provided by law, shall, notwithstanding, be in all respects valid and sufficient; and property conveyed by instruments in which the acknowledgments were taken by such notary public are hereby validated and shall convey the properties therein purported to be conveyed as intended thereby.

“§ 10-13. *Acts of notaries public in certain instances validated.*—The acts of any person heretofore performed after appointment as a notary public and prior to qualification as a notary public or upon reappointment and prior to qualification:

(1) In taking any acknowledgment, or

(2) In notarizing any instrument,

are all hereby declared to be valid and of the same legal effect as if such person had qualified as a notary public prior to performing any such acts.

“§ 10-14. *Validation of acknowledgment wherein expiration of notary's commission erroneously stated.*—All deeds, deeds of trust, mortgages, conveyances, affidavits, and all other paper writings similar or dissimilar to those enumerated herein, whether or not permitted or required to be recorded or filed under the laws of this State heretofore or hereafter executed, bearing an official act of a notary public in which the date of the notary's commission is erroneously stated, are, together with all subsequent acts or actions taken thereon, including but not limited to probate and registration, hereby declared in all respects to be valid to the extent as if the correct expiration date had been stated and shall be binding on the parties of such paper writings and their privies; and such paper writings, together with their certificates may, if otherwise competent, be read in evidence as a muniment of title for all intents and purposes in any of the courts of this State: Provided, that at the date of such official act the notary's commission was actually in force.

“§ 10-15. *Validation of instruments which do not contain readable impression of notary's name.*—All deeds, deeds of trust, mortgages, conveyances, affidavits and all other paper writings similar or dissimilar to those enumerated herein, whether or not permitted or required to be recorded or filed under the laws of this State heretofore executed, bearing the official act of a notary public as attested by his notarial seal, but which seal does not contain a readable impression of the notary's name are, together with all subsequent acts or actions taken thereon, including but not limited to probate and registration, hereby declared in all respects to be valid to the same extent as if a seal containing a readable impression of the notary's name had been affixed thereto, and shall be binding on the parties of such paper writings and their privies; and such paper writings, together with their certificates, if otherwise competent, may be read in

evidence as a muniment of title for all intents and purposes in any of the courts of this State.

“§ 10-16. *Acts of notaries with seal containing name of another state validated.*—The notarial acts of any person heretofore duly commissioned as a notary public in this State, who used in performing such acts a seal correctly containing the name of the notary and the proper county but mistakenly containing the abbreviation for the State of Georgia instead of North Carolina, are hereby validated and given the same legal effect as if such misprint or incorrect designation of the State had not appeared on the seal or seal imprint so used.

“§ 10-17. *Validation of certain instruments acknowledged prior to January 1, 1945.*—Where any person has taken an acknowledgment as a notary public of a person acting through another by virtue of the execution of a power of attorney and by said person acting in his individual capacity and said notary public has failed to include within his certificate the acknowledgment of said person in his capacity as attorney in fact, and such acknowledgment has been otherwise duly probated and recorded, then such acknowledgment is hereby declared to be sufficient and valid: Provided, this section shall apply only to those deeds and other instruments acknowledged prior to January 1, 1945.”

Sec. 2. All laws and clauses of laws in conflict herewith, to the extent of such conflict, are hereby repealed.

Sec. 3. This act shall be in force from and after its ratification.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

H. B. 1013

CHAPTER 681

AN ACT TO PROVIDE NOTICE TO INTERESTED PARTIES IN TAX FORECLOSURE PROCEDURES UNDER G.S. 105-375.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-375(c) is hereby rewritten to read as follows:

“(c) Notice to listing taxpayer and others. The tax collector filing the certificate provided for in subsection (b), above, shall, at least 30 days prior to docketing the judgment, send a registered or certified letter, return receipt requested, to the listing taxpayer at his last known address, and to all lienholders of record who have filed with the office of the tax collector of the taxing unit or units in which the real property subject to his lien is located a request that he be notified of the docketing of a judgment under the procedure set forth in this section, stating that the judgment will be docketed and that execution will be issued thereon in the manner provided by law. The request from the lienholder shall be made on a form supplied by the tax collector and shall describe the real property, indicate whose name it is listed in for taxation, and state the name and mailing address of the lienholder. If within 10 days following the mailing of said letters of notice, a return receipt has not been received by the tax collector indicating receipt of the letter, then the tax collector shall have a notice published in a newspaper of general circulation in said county once a week for two consecutive weeks directed to, and naming, all unnotified lienholders and the listing taxpayer that a judgment will be docketed against the listing taxpayer. The notice shall contain the proposed date of such docketing, that execution will issue thereon as provided by law, a brief description of the real

property affected, and notice that the lien may be paid off prior to judgment being entered. All costs of mailing and publication shall be added to those set forth in subsection (b)."

Sec. 2. G.S. 105-375(a) is hereby amended by deleting from line 8 the words "without special notice thereof".

Sec. 3. The provisions of this act shall have no effect upon litigation pending at its effective date nor shall it have any effect upon proceedings under G.S. 105-375 for which certificates have already been docketed at its effective date.

Sec. 4. This act shall become effective on July 1, 1973.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

H. B. 1025

CHAPTER 682

AN ACT TO CREATE THE NORTH CAROLINA ALCOHOLISM RESEARCH AUTHORITY.

Whereas, the State of North Carolina has provided rehabilitation services for alcoholism for over 20 years; and

Whereas, the prevalence rate of alcoholism has increased during this time; and

Whereas, the problems stemming from alcohol abuse have deleterious effects upon all our citizens by causing broken homes, economic hardships, work difficulties, highway accidents and deaths, other deaths from violence, criminal behavior, medical diseases including sudden death; and

Whereas, until now the State of North Carolina has concentrated its efforts almost exclusively upon treatment and rehabilitation without seeking the root causes of alcoholism and without making efforts at its prevention; and

Whereas, since 1970, the University of North Carolina Center for Alcohol Studies has had a director and small staff supported by a small appropriation; and

Whereas, the initial efforts of the Center for Alcohol Studies have clearly indicated a need for greater expenditure of time, effort and money in the area of alcohol studies; and

Whereas, North Carolina has the potential talent pool of qualified scientists to perform necessary studies; and

Whereas, competent scientists and organizations throughout North Carolina need to be assisted in focusing efforts upon the cause, prevention and cure of alcoholism; and

Whereas, studies in North Carolina of biological (including medical), sociological and psychological factors concerning alcohol use and abuse are needed; and

Whereas, any legal changes hereinafter introduced with regard to the manufacture, distribution, sale and use of alcoholic beverages need to be monitored by modern scientific methods to determine the effects of such legal changes so that further legislative measures might be guided by the results of such scientific study; and

Whereas, an appropriate authority needs to be created to support such efforts; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The North Carolina Alcoholism Research Authority is hereby created which shall consist of and be governed by a nine-member board to be appointed by the Governor. Three of the members shall be appointed for a two-year term, three shall be appointed for a four-year term, and three shall be appointed for a six-year term; thereafter all appointments shall be for terms of six years. Any vacancy occurring in the membership of the board shall be filled by the Governor for the unexpired term.

Sec. 2. The board shall elect one of its members chairman and one as vice-chairman. The director of the Center for Alcohol Studies of the University of North Carolina at Chapel Hill shall serve ex-officio as executive secretary to the Authority. Board members shall receive the same per diem, subsistence, and travel allowances as members of similar State boards and commissions, provided funds are available in the "Alcoholism Research Fund" for this purpose.

Sec. 3. The Authority is hereby authorized to receive funds from State, federal, private, or other sources, which funds shall be held separately and designated as the "Alcoholism Research Fund". The Authority shall expend these funds on research as to the causes and effects of alcohol abuse and alcoholism, and for the training of alcohol research personnel. Expenditures for the purposes specified in this section shall be made as appropriations to nonprofit corporations, organizations, agencies, or institutions engaging in such research or training. The Authority may also pay necessary administrative expenses from the Fund.

Sec. 4. Applications for grants hereinafter shall be processed by the Center for Alcohol Studies. All applications shall be reviewed by scientific consultants to the Center; and the Center, after review and study, shall make recommendations to the Authority as to the awarding of grants. The Center shall also furnish to the Authority such additional clerical assistance as may be required.

Sec. 5. The Authority may adopt and promulgate rules and regulations relative to applications for grants, the reviewing of grants, and awarding of grants.

Sec. 6. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

H. B. 1038

CHAPTER 683

AN ACT TO AMEND G.S. 55-50 SO AS TO EXEMPT REGULATED INVESTMENT COMPANIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 55-50(h) is hereby amended and rewritten to read as follows:

"(h) The provisions of the foregoing subsections shall not apply to banks, insurance companies, and investment companies registered under the Investment Company Act of 1940."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

H. B. 1039

CHAPTER 684

AN ACT TO AMEND G.S. 20-32 SO AS TO MAKE IT UNLAWFUL TO PERMIT ANY UNLICENSED MINOR TO DRIVE A MOTOR VEHICLE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-32 is amended by deleting from the second line the words "over 16 and" so that it will read as follows:

"It shall be unlawful for any person to cause or knowingly permit any minor under the age of 18 years to drive a motor vehicle upon a highway as an operator, unless such minor shall have first obtained a license to so drive a motor vehicle under the provisions of this Article."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

H. B. 1044

CHAPTER 685

AN ACT TO AMEND ARTICLE II OF CHAPTER 95 OF THE GENERAL STATUTES TO PROVIDE THAT PERSONS WORKING IN EXCESS OF FIFTY HOURS IN ANY ONE WEEK SHALL BE PAID OVERTIME.

The General Assembly of North Carolina enacts:

Section 1. Article II of Chapter 95 of the General Statutes is hereby amended by adding a new section which will read as follows:

"§ 95-17.1. *Overtime.*—Any employee not exempt from the provisions of this Article working in excess of fifty hours in any one week shall be paid time and a half at his regular rate of pay for such excess hours."

Sec. 2. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

H. B. 1048

CHAPTER 686

AN ACT AMENDING GENERAL STATUTE 58-77(9) PERTAINING TO THE AMOUNT OF CAPITAL AND SURPLUS REQUIRED BY INSURANCE COMPANIES DOING BUSINESS WITHIN THE STATE SO AS TO EXTEND TO JULY 1, 1975, COMPLIANCE WITH THE INCREASED CAPITAL AND SURPLUS REQUIREMENTS BY CERTAIN COMPANIES.

The General Assembly of North Carolina enacts:

Section 1. Subdivision (9) of G.S. 58-77 is hereby amended by rewriting this subdivision as follows:

"(9) Any domestic, foreign or alien company licensed to do business in North Carolina prior to July 1, 1965, shall be permitted to continue to do the same kinds of business which it was authorized to do on such date without being required to increase its capital and/or surplus, provided, however, such insurers shall increase the capital and surplus requirements to the amounts set forth herein on or before July 1, 1975, but the requirements of this section as to capital and surplus shall apply to such companies as a prerequisite to writing additional lines of business."

Sec. 2. This act shall become effective on and after its ratification.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

H. B. 1057

CHAPTER 687

AN ACT AUTHORIZING THE GOVERNING BODY OF THE TOWN OF CHAPEL HILL TO REGULATE PUBLIC OFF-STREET PARKING FACILITIES.

The General Assembly of North Carolina enacts:

Section 1. The Board of Aldermen of the Town of Chapel Hill may by ordinance make it unlawful to park any vehicle in an off-street parking facility without paying the established fee or charge and may adopt other regulations pertaining to the use of such facilities.

Sec. 2. This act shall apply only to the Town of Chapel Hill.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

H. B. 1058

CHAPTER 688

AN ACT TO AMEND G.S. 58-226 RELATING TO THE BYLAWS OF MUTUAL BURIAL ASSOCIATIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-226 is hereby amended by deleting from Article 2 therein as the same appears in the 1971 Cumulative Supplement to 1965 Replacement Volume 2B of the General Statutes on lines 6 and 7 thereof the words “; and in no case shall any cash be paid”.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

H. B. 1061

CHAPTER 689

AN ACT TO AMEND G.S. 20-188 CONCERNING INVESTIGATIONS OF VEHICULAR ACCIDENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-188 is hereby amended by adding a new paragraph at the end thereof to read as follows:

“Regardless of territorial jurisdiction, any member of the State Highway Patrol who initiates an investigation of an accident or collision may not relinquish responsibility for completing the investigation, or for filing criminal charges as appropriate, without clear assurance that another law enforcement officer or agency has fully undertaken responsibility, and in such cases he shall render reasonable assistance to the succeeding officer or agency if requested.”

Sec. 2. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

H. B. 1290

CHAPTER 690

AN ACT TO AMEND CHAPTER 755 OF THE 1969 SESSION LAWS TO PROVIDE CHANGE ONLY WITH RESPECT TO A PROJECT WHOLLY SELF-LIQUIDATING.

The General Assembly of North Carolina enacts:

Section 1. The purpose of this act is to amend Chapter 755 of the 1969 Session Laws of North Carolina, with respect to the remaining 200 unconstructed wholly self-liquidating dormitory spaces, by increasing the allowance from three thousand nine hundred dollars (\$3,900) to an amount not to exceed five thousand dollars (\$5,000) per student occupant.

Sec. 2. Section 4 of said Chapter 755 of the 1969 Session Laws beginning on page 784 of the 1969 Session Laws, under the institutional subheading as indicated and affecting only the project as listed in this act is amended to read as follows:

University of North Carolina at Wilmington

7. One 200-Student Dormitory Building	\$ 940,000	
Movable Equipment	<u>60,000</u>	
Subtotal	1,000,000	
Less Self-Liquidating	<u>1,000,000</u>	-0-

Sec. 3. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

H. B. 1291

CHAPTER 691

AN ACT TO AMEND CHAPTER 693 OF THE 1971 SESSION LAWS TO PROVIDE CHANGE ONLY WITH RESPECT TO A PROJECT WHOLLY SELF-LIQUIDATING.

The General Assembly of North Carolina enacts:

Section 1. The purpose of this act is to amend Chapter 693 of the 1971 Session Laws of North Carolina, with respect to the remaining 450 unconstructed wholly self-liquidating dormitory spaces, by increasing the allowance from four thousand four hundred dollars (\$4,400) to an amount not to exceed five thousand dollars (\$5,000) per student occupant.

Sec. 2. Section 4 of said Chapter 693 of the 1971 Session Laws beginning on page 692 of the 1971 Session Laws, under the institutional subheading as indicated and affecting only the project as listed in this act is amended to read as follows:

Fayetteville State University

8. Dormitory For 450 students	\$2,080,000	
Moveable Equipment	<u>170,000</u>	
Subtotal	2,250,000	
Less Self-Liquidating	<u>2,250,000</u>	-0-

Sec. 3. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

H. B. 1293 CHAPTER 692

AN ACT TO AMEND CHAPTER 693 OF THE 1971 SESSION LAWS TO PROVIDE CHANGE ONLY WITH RESPECT TO A PROJECT WHOLLY SELF-LIQUIDATING.

The General Assembly of North Carolina enacts:

Section 1. The purpose of this act is to amend Chapter 693 of the 1971 Session Laws of North Carolina, with respect to the remaining 200 unconstructed wholly self-liquidating dormitory spaces, by increasing the allowance from four thousand four hundred dollars (\$4,400) to an amount not to exceed five thousand dollars (\$5,000) per student occupant.

Sec. 2. Section 4 of said Chapter 693 of the 1971 Session Laws beginning on page 692 of the 1971 Session Laws, under the institutional subheading as indicated and affecting only the project as listed in this act is amended to read as follows:

Elizabeth City State University

8. Dormitory for 200 students	\$940,000	
Movable equipment	<u>60,000</u>	
Subtotal	1,000,000	
Less self-liquidating	<u>1,000,000</u>	-0-

Sec. 3. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

H. B. 1294 CHAPTER 693

AN ACT TO AMEND CHAPTER 755 OF THE 1969 SESSION LAWS TO PROVIDE CHANGE ONLY WITH RESPECT TO A PROJECT WHOLLY SELF-LIQUIDATING.

The General Assembly of North Carolina enacts:

Section 1. Section 4 of Chapter 755 of the 1969 Session Laws beginning on page 784 of the 1969 Session Laws, under the institutional subheading as indicated and affecting only the project as listed in this act is amended to read as follows:

University of North Carolina at Chapel Hill (Academic Affairs)

2. Special Collections Library Building		
Building	\$3,240,000	
Fixed Equipment	250,000	
Moveable Equipment	<u>200,000</u>	
Subtotal	3,690,000	
Less Private Gifts	<u>3,690,000</u>	-0-

Sec. 2. This act shall be in full force and effect upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

H. B. 1314

CHAPTER 694

AN ACT TO AUTHORIZE THE WILKES COUNTY BOARD OF EDUCATION TO CONVEY CERTAIN REAL PROPERTY TO THE MOUNTAIN VIEW VOLUNTARY FIRE DEPARTMENT.

The General Assembly of North Carolina enacts:

Section 1. The Wilkes County Board of Education is hereby authorized to convey to the Mountain View Voluntary Fire Department, without receiving consideration therefor, that certain tract of real property lying in the County of Wilkes and being described as follows:

BEGINNING on an iron stake in the Right of Way line SR 1002 running South 6 degrees East 156.70' to an iron stake. Thence North 89 degrees 52 minutes East 182.57 feet to an iron stake. Thence North 6 degrees West 185' to an iron stake—the Right of Way line of SR 1002 and thence with the Right of Way line South 69 degrees 55 minutes East 186.84 feet to the BEGINNING. Containing .73 of an acre.

Sec. 2. The Wilkes County Board of Education is hereby empowered and authorized to execute a deed to said Mountain View Voluntary Fire Department conveying title to said real property.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.

S. B. 147

CHAPTER 695

AN ACT TO REVISE THE STATUTES PROVIDING FOR PROPERTY TAX CLASSIFICATIONS AND EXEMPTIONS AND TO REPEAL THE AUTHORITY TO USE ASSESSMENT RATIOS IN THE TAXATION OF PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-275 is rewritten to read as follows:

“§ 105-275. *Property classified and excluded from the tax base.*—The following classes of property are hereby designated special classes under authority of Article V, Section 2(2), of the North Carolina Constitution and shall not be listed, appraised, assessed, or taxed:

(1) Tangible personal property stored in this State for shipment through a North Carolina seaport terminal to a foreign country—for one tax year as prescribed herein. An owner of property stored in this State who, as of the tax listing date in any year, expects to ship that property to a foreign country through a North Carolina seaport terminal before January 1 of the following year, shall list such property as required by law. At the time of listing it, he shall describe the property on the abstract in such a way that it may be identified and distinguished from other property of the owner, and as part of the description the owner shall write or stamp the following statement on the abstract: “The owner expects to ship this property to a foreign country through a North Carolina seaport terminal before January 1 of next year.” Property so listed and earmarked shall be appraised, assessed, and taxed; but if the property is shipped as expected, the governing body of the taxing unit shall release the claim for taxes and, if the taxes have been paid, refund them to the person who paid them. Before ordering such a release, however, the governing body shall require the

property owner to furnish it with a copy of the bill of lading for the qualifying shipment, adequately identifying the property as that which was listed by the owner. (The purpose of this classification is to encourage the development of the ports of this State.)

(2) Tangible personal property that has been imported from a foreign country through a North Carolina seaport terminal and which is stored at such a terminal while awaiting further shipment—for the first 12 months of such storage. (The purpose of this classification is to encourage the development of the ports of this State.)

(3) Real and personal property owned by nonprofit water or nonprofit sewer associations or corporations.

(4) For the year following that in which grown, farm products (including crops but excluding poultry and other livestock) that:

- a. are in an unmanufactured state and
- b. are owned by the original producer.

(5) Vehicles that the United States government gives to veterans on account of disabilities they suffered in World War II, the Korean Conflict, or the Viet Nam Era so long as they are owned by:

- a. a person to whom a vehicle has been given by the United States government or
- b. another person who is entitled to receive such a gift under Title 38, Section 252, United States Code Annotated.

(6) Real and personal property that is:

- a. owned by a nonprofit corporation formed under the provisions of Chapter 55A of the General Statutes and
- b. appropriated exclusively for public parks and drives.

(7) Real and personal property that is used or, if under construction, is to be used exclusively for air cleaning or waste disposal or to abate, reduce, or prevent the pollution of air or water (including, but not limited to, waste lagoons and facilities owned by public or private utilities built and installed primarily for the purpose of providing sewer service to areas that are predominantly residential in character or areas that lie outside territory already having sewer service), if the Board of Water and Air Resources furnishes a certificate to the tax supervisor of the county in which the property is situated or to be situated stating that the Board has found that the described property:

- a. has been or will be constructed or installed;
- b. complies with or that plans therefor which have been submitted to the Board indicate that it will comply with the requirements of the Board;
- c. is being effectively operated or will, when completed, be required to operate in accordance with the terms and conditions of the permit, certificate of approval, or other document of approval issued by the Board; and
- d. has or, when completed, will have as its primary rather than incidental purpose the reduction of water pollution resulting from the discharge of sewage and waste or the reduction of air pollution resulting from the emission of air contaminants.

(8) All cotton while subject to transit privileges under Interstate Commerce Commission tariffs.

(9) Personal property of nonresidents of the State in its original package or fungible goods in bulk, belonging to a nonresident of the State, shipped into this

State and placed in a public warehouse for the purpose of transshipment to an out-of-state or within-the-state destination, and so designated on the original bill of lading, so long as such personal property remains in its original package or, if fungible, in bulk, and in such a public warehouse. No portion of a premises owned or leased by a consignor or consignee, or subsidiary of a consignor or consignee, shall be deemed to be a public warehouse within the meaning of this subdivision despite any licensing as such.

(10) Personal property of residents of the State in its original package and fungible goods in bulk, belonging to a resident of the State, placed in a public warehouse for the purpose of transshipment to an out-of-state destination, and so designated on the original bill of lading, so long as such personal property remains in its original package or, if fungible, in bulk, and in such a public warehouse. No portion of a premises owned or leased by a consignor or consignee, or a subsidiary of a consignor or consignee, shall be deemed to be a public warehouse within the meaning of this subdivision despite any licensing as such.

(11) Real property owned by a non-profit corporation or association exclusively held and used by its owner for educational and scientific purposes as a protected natural area. (For purposes of this subdivision, the term 'protected natural area' means a nature reserve or park in which all types of wild nature, flora and fauna, and biotic communities are preserved for observation and study.

(12) A motor chassis belonging to nonresidents, which chassis temporarily enters the State for the purpose of having a body mounted thereon."

Sec. 2. G.S. 105-277 is rewritten to read as follows:

"§ 105-277. *Property classified for taxation at reduced rates.*—(a) *Agricultural Products in Storage.* Any agricultural product held in storage in North Carolina by any manufacturer or processor for manufacturing or processing, which product is of such nature as customarily to require storage and processing for periods of more than one year in order to age or condition the product for manufacture, is hereby designated a special class of property under authority of Article V, Section 2(2), of the North Carolina Constitution. Agricultural products so classified shall be taxed uniformly as a class in each local taxing unit at sixty percent (60%) of the rate levied for all purposes upon real property and other tangible personal property by the taxing unit in which the products are listed for taxation.

(b) *Peanuts.* Peanuts held in storage in North Carolina in the year following the year in which grown are hereby designated a special class of property under authority of Article V, Section 2(2), of the North Carolina Constitution. Peanuts so classified shall be taxed uniformly as a class in each local taxing unit at twenty percent (20%) of the rate levied for all purposes upon real property and other tangible personal property by the taxing unit in which the peanuts are listed for taxation.

(c) *Baled Cotton.* Cotton in bales held in North Carolina for manufacturing or processing in this State is hereby designated a special class of property under authority of Article V, Section 2(2), of the North Carolina Constitution. Baled cotton so classified shall be taxed uniformly as a class in each local taxing unit at fifty percent (50%) of the rate levied for all purposes upon real property and other tangible personal property by the taxing unit in which the cotton is listed for taxation.

(d) All bona fide indebtedness incurred in the purchase of fertilizer and fertilizer materials owing by a taxpayer as principal debtor may be deducted from the total value of all fertilizer and fertilizer materials as are held by such taxpayer for his own use in agriculture during the current year. Provided, further, that from the total value of cotton stored in this State there may be deducted by the owner thereof all bona fide indebtedness incurred directly for the purchase of said cotton and for the payment of which the cotton so purchased is pledged as collateral."

Sec. 3. A new section to read as follows is inserted immediately following G.S. 105-277:

"§ 105-277A. *Property classified for taxation at reduced valuation.*—Farm products (including crops but excluding poultry and other livestock) held by or for a cooperative stabilization or marketing association or corporation to which they have been delivered, conveyed, or assigned by the original producer for the purpose of sale are hereby designated a special class of property under authority of Article V, Section 2(2), of the North Carolina Constitution. Before being assessed for taxation, the appraised valuation of farm products so classified shall be reduced by the amount of any unpaid loan or advance made or granted thereon by the United States government, an agency of the United States government, or a cooperative stabilization or marketing association or corporation."

Sec. 4. G.S. 105-278 and G.S. 105-280 are repealed, and the nine sections set out herein are substituted for them:

"§ 105-278. *Exemption of real and personal property owned by units of government.*—(a) Real and personal property owned by the United States and, by virtue of federal law, not subject to state and local taxes shall be exempted from taxation.

(b) Real and personal property owned by any of the following units of government shall be exempted from taxation if it is used wholly and exclusively for public purposes:

- (1) the State of North Carolina,
- (2) a county of this State,
- (3) a city or town of this State,
- (4) a special district or other unit of local government of this State, or
- (5) two or more units of local government of this State.

(c) For purposes of this section:

- (1) A specified unit of government (federal, State, or local) includes its departments, institutions, and agencies.
- (2) By way of illustration but not by way of limitation, the following boards, commissions, authorities, and institutions are units of State government:
 - a. The State Marketing Authority established by G.S. 106-529.
 - b. The Board of Governors of the University of North Carolina incorporated under the provisions of G.S. 116-3 and known as 'the University of North Carolina'.
 - c. The North Carolina Museum of Art made an agency of the State under G.S. 140-1.

(3) By way of illustration but not by way of limitation, the following

boards, commissions, authorities, and institutions are units of local government of this State:

- a. An airport authority, board, or commission created as a separate and independent body corporate and politic by an act of the General Assembly.
- b. An airport authority, board, or commission created as a separate and independent body corporate and politic by one or more counties or municipalities or combinations thereof under the authority of an act of the General Assembly.
- c. A hospital authority created under G.S. 131-93.
- d. A housing authority created under G.S. 157-4 or G.S. 157-4.1.
- e. A municipal parking authority created under G.S. 160-477.
- f. A veterans' recreation authority created under G.S. 165-26.

"§ 105-278.1. *Burial property.*—Real property set apart for burial purposes shall be exempted from taxation unless it is owned and held for purposes of (a) sale or rental or (b) sale of burial rights therein. For purposes of this section, the term 'real property' includes land, tombs, vaults, mausoleums, monuments, and similar structures.

"§ 105-278.2. *Real and personal property used for religious purposes.*—(a) Buildings, the land they actually occupy, and additional adjacent land reasonably necessary for the convenient use of any such building shall be exempted from taxation if wholly owned by an agency listed in subsection (c), below, and if:

- (1) wholly and exclusively used by its owner for religious purposes as defined in subsection (d)(1), below; or
- (2) occupied gratuitously by one other than the owner and wholly and exclusively used by the occupant for religious, charitable, or nonprofit educational, literary, scientific, or cultural purposes.

(b) Personal property shall be exempted from taxation if wholly owned by an agency listed in subsection (c), below, and if:

- (1) wholly and exclusively used by its owner for religious purposes; or
- (2) gratuitously made available to one other than the owner and wholly and exclusively used by the possessor for religious, charitable, or nonprofit educational, literary, scientific, or cultural purposes.

(c) The following agencies, when the other requirements of this section are met, may obtain exemption for their properties:

- (1) a congregation, parish, mission, or similar local unit of a church or religious body or
- (2) a conference, association, presbytery, diocese, district, synod, or similar unit comprising local units of a church or religious body.

(d) Within the meaning of this section:

- (1) A religious purpose is one that pertains to practicing, teaching, and setting forth a religion. Although worship is the most common religious purpose, the term encompasses other activities that demonstrate and further the beliefs and objectives of a given church or religious body. Within the meaning of this section, the ownership and maintenance of a general or promotional office or headquarters by an owner listed in subdivision (2) of subsection (c), above, is a religious purpose, and the ownership and maintenance of residences for ministers assigned to or serving a congregation, parish, mission, or similar local unit is also a

religious purpose. However, the ownership and maintenance of residences for other employees is not a religious purpose for either a local unit of a church or a religious body or a conference, association, presbytery, diocese, district, synod, or similar unit of a church or religious body.

- (2) A charitable purpose is one that has humane and philanthropic objectives; it is an activity that benefits humanity or a significant rather than limited segment of the community without expectation of pecuniary profit or reward. The humane treatment of animals is also a charitable purpose.
- (3) An educational purpose is one that has as its objective the education or instruction of human beings; it comprehends the transmission of information and the training or development of the knowledge or skills of individual persons.
- (4) A literary purpose is one that pertains to letters or literature (including drama), especially writing, publishing, and the study of literature.
- (5) A cultural purpose is one that is conducive to the enlightenment and refinement of taste acquired through intellectual and aesthetic training, education, and discipline.
- (6) A scientific purpose is one that yields knowledge systematically through research, experimentation or other work done in one or more of the natural sciences.

(e) Notwithstanding the exclusive use requirement of subsection (a), above, if part of a property that otherwise meets that subsection's requirements is used for a purpose that would require exemption if the entire property were so used, the valuation of the part so used shall be exempted from taxation.

(f) The fact that a building or facility is incidentally available to and patronized by the general public, so long as there is no material amount of business or patronage with the general public, shall not defeat the exemption granted by this section.

“§ 105-278.3. *Real and personal property used for educational purposes.*—(a) Buildings, the land they actually occupy, and additional land reasonably necessary for the convenient use of any such building shall be exempted from taxation if:

- (1) owned by an educational institution (including a university, college, school, seminary, academy, industrial school, public library, museum, and similar institution);
- (2) the owner is not organized or operated for profit and no officer, shareholder, member, or employee of the owner or any other person is entitled to receive pecuniary profit from the owner's operations except reasonable compensation for services;
- (3) of a kind commonly employed in the performance of those activities naturally and properly incident to the operation of an educational institution such as the owner; and
- (4) wholly and exclusively used for educational purposes by the owner or occupied gratuitously by another nonprofit educational institution (as defined herein) and wholly and exclusively used by the occupant for nonprofit educational purposes.

(b) Land (exclusive of improvements); and improvements other than buildings, the land actually occupied by such improvements, and additional land

reasonably necessary for the convenient use of any such improvement shall be exempted from taxation if:

- (1) owned by an educational institution that owns real property entitled to exemption under the provisions of subsection (a), above;
- (2) of a kind commonly employed in the performance of those activities naturally and properly incident to the operation of an educational institution such as the owner; and
- (3) wholly and exclusively used for educational purposes by the owner or occupied gratuitously by another nonprofit educational institution (as defined herein) and wholly and exclusively used by the occupant for nonprofit educational purposes.

(c) Notwithstanding the exclusive use requirements of subsections (a) and (b), above, if part of a property that otherwise meets the requirements of one of those subsections is used for a purpose that would require exemption if the entire property were so used, the valuation of the part so used shall be exempted from taxation.

(d) The fact that a building or facility is incidentally available to and patronized by the general public, so long as there is no material amount of business or patronage with the general public, shall not defeat the exemption granted by this section.

(e) Personal property owned by a church, a religious body, or an educational institution (including a university, college, school, seminary, academy, industrial school, public library, museum, and similar institution) shall be exempted from taxation if:

- (1) the owner is not organized or operated for profit, and no officer, shareholder, member, or employee of the owner, or any other person is entitled to receive pecuniary profit from the owner's operations except reasonable compensation for services; and
- (2) used wholly and exclusively for educational purposes by the owner or held gratuitously by a church, religious body, or nonprofit educational institution (as defined herein) other than the owner, and wholly and exclusively used for nonprofit educational purposes by the possessor.

(f) An educational purpose within the meaning of this section is one that has as its objective the education or instruction of human beings; it comprehends the transmission of information and the training or development of the knowledge or skills of individual persons.

“§ 105-278.4. *Real and personal property of religious educational assemblies used for religious and educational purposes.*—(a) Buildings, the land they actually occupy, and additional adjacent land reasonably necessary for the convenient use of any such building or for the religious educational programs of the owner, shall be exempted from taxation if:

- (1) owned by a religious educational assembly, retreat, or similar organization;
- (2) no officer, shareholder, member, or employee of the owner, or any other person is entitled to receive pecuniary profit from the owner's operations except reasonable compensation for services; and

(3) of a kind commonly employed in those activities naturally and properly incident to the operation of a religious educational assembly such as the owner; and

- (4) wholly and exclusively used for a. religious worship or
b. purposes of instruction in religious education.

(b) Notwithstanding the exclusive use requirement of subsection (a), above, if part of a property that otherwise meets the subsection's requirements is used for a purpose that would require exemption if the entire property were so used, the valuation of the part so used shall be exempted from taxation.

(c) The fact that a building or facility is incidentally available to and patronized by the general public, so long as there is no material amount of business or patronage with the general public, shall not defeat the exemption granted by this section.

(d) Personal property owned by a religious educational assembly, retreat, or similar organization shall be exempted from taxation if it is exclusively maintained and used in connection with real property granted exemption under the provisions of subsection (a) or (b), above.

“§ 105-278.5. *Real and personal property used for charitable purposes.*—(a) Real and personal property owned by:

- (1) a Young Men's Christian Association or similar organization;
- (2) a home for the aged, sick, or infirm;
- (3) an orphanage or similar home;
- (4) a Society for the Prevention of Cruelty to
Animals;
- (5) a reformatory or correctional institution; or
- (6) a monastery, convent, or nunnery;
- (7) a nonprofit, life-saving, first aid, or rescue
squad organization;

shall be exempted from taxation if:

- (1) as to real property, it is actually and exclusively occupied and used, and as to personal property, it is entirely and completely used, by the owner for charitable purposes; and
- (2) the owner is not organized or operated for profit.

(b) A charitable purpose within the meaning of this section is one that has humane and philanthropic objectives; it is an activity that benefits humanity or a significant rather than limited segment of the community without expectation of pecuniary profit or reward. The humane treatment of animals is also a charitable purpose.

(c) The fact that a building or facility is incidentally available to and patronized by the general public, so long as there is no material amount of business or patronage with the general public, shall not defeat the exemption granted by this section.

(d) Notwithstanding the exclusive use requirements of this section, if part of a property that otherwise meets the section's requirements is used for a purpose that would require exemption under subsection (a), above, if the entire property were so used, the valuation of the part so used shall be exempted from taxation.

“§ 105-278.6. *Real and personal property used for educational, scientific, literary, or charitable purposes.*—(a) Buildings, the land they actually occupy, and additional adjacent land necessary for the convenient use of any such

building shall be exempted from taxation if wholly owned by an agency listed in subsection (c), below, and if:

(1) wholly and exclusively used by its owner for nonprofit educational, scientific, literary, or charitable purposes as defined in subsection (e), below; or

(2) occupied gratuitously by an agency listed in subsection (c), below, other than the owner, and wholly and exclusively used by the occupant for nonprofit educational, scientific, literary, or charitable purposes.

(b) Personal property shall be exempted from taxation if wholly owned by an agency listed in subsection (c), below, and if:

(1) wholly and exclusively used by its owner for nonprofit educational, scientific, literary, or charitable purposes; or

(2) gratuitously made available to an agency listed in subsection (c), below, other than the owner, and wholly and exclusively used by the possessor for nonprofit educational, scientific, literary, or charitable purposes.

(c) The following agencies, when the other requirements of this section are met, may obtain property tax exemption under this section:

(1) a charitable association or institution,

(2) an historical association or institution,

(3) a veterans' organization or association,

(4) a scientific association or institution,

(5) a literary association or institution,

(6) a benevolent association or institution, or

(7) a nonprofit community or neighborhood organization.

(d) Notwithstanding the exclusive use requirements of subsection (a), above, if part of a property that otherwise meets the subsection's requirements is used for a purpose that would require exemption if the entire property were so used, the valuation of the part so used shall be exempted from taxation.

(e) The fact that a building or facility is incidentally available to and patronized by the general public, so long as there is no material amount of business or patronage with the general public, shall not defeat the exemption granted by this section.

(f) Within the meaning of this section:

(1) An educational purpose is one that has as its objective the education or instruction of human beings; it comprehends the transmission of information and the training or development of the knowledge or skills of individual persons.

(2) A scientific purpose is one that yields knowledge systematically through research, experimentation, or other work done in one or more of the natural sciences.

(3) A literary purpose is one that pertains to letters or literature (including drama), especially writing, publishing, and the study of literature.

(4) A charitable purpose is one that has humane and philanthropic objectives; it is an activity that benefits humanity or a significant rather than limited segment of the community without expectation of pecuniary profit or reward. The humane treatment of animals is also a charitable purpose.

“§ 105-278.7. *Real and personal property used for charitable hospital purposes.*—(a) Real and personal property held for or owned by a hospital

organized and operated as a nonstock, nonprofit, charitable institution (without profit to members or their successors) shall be exempted from taxation if actually and exclusively used for charitable hospital purposes.

(b) Notwithstanding the exclusive use requirements of subsection (a), above, if part of a property that otherwise meets that subsection's requirements is used for a purpose that would require exemption under that subsection if the entire property were so used, the valuation of the part so used shall be exempted from taxation.

(c) Within the meaning of this section, a charitable hospital purpose is a hospital purpose that has humane and philanthropic objectives; it is a hospital activity that benefits humanity or a significant rather than limited segment of the community without expectation of pecuniary profit or reward. However, the fact that a qualifying hospital charges patients who are able to pay for services rendered does not defeat the exemption granted by this section.

"§ 105-278.8. *General exemption for individually owned personal property.*—When tangible personal property is listed for taxation by an individual person whose duty it is to list it, the total appraised valuation of that property shall be reduced by the sum of three hundred dollars (\$300.00) before it is assessed and taxed."

Sec. 5. Subdivision (a)(1) of G.S. 105-317, as it appears in 1972 Replacement Volume 2D of the General Statutes of North Carolina, is rewritten to read as follows:

"(1) In determining the true value of land, to consider as to each tract, parcel, or lot separately listed at least its advantages and disadvantages as to location; zoning; quality of soil; water power; water privileges; mineral, quarry, or other valuable deposits; fertility; adaptability for agricultural, timber producing, commercial, industrial, or other uses; past income; probable future income; and any other factors that may affect its value except growing crops of a seasonal or annual nature."

Sec. 6. G.S. 131-110 is rewritten to read as follows:

"§ 131-110. *Tax exemptions.*—The authority shall be exempt from the payment of any taxes or fees to the State or any subdivision thereof, or to any officer or employee of the State or any subdivision thereof. The property of an authority used for public purposes shall be exempt from all local and municipal taxes and for the purposes of such tax exemption, it is hereby declared as a matter of legislative determination that an authority is and shall be deemed to be a municipal corporation. Bonds, notes, debentures and other evidences of indebtedness of an authority are declared to be issued for a public purpose and to be public instrumentalities and, together with interest thereon, shall be exempt from taxes when same are held by the federal government or by any purchaser from the federal government or anyone acquiring title from or through such purchaser."

Sec. 7. G.S. 157-26 is rewritten to read as follows:

"§ 157-26. *Tax exemptions.*—The authority shall be exempt from the payment of any taxes or fees to the State or any subdivision thereof, or to any officer or employee of the State or any subdivision thereof. The property of an authority used for public purposes shall be exempt from all local and municipal taxes and for the purposes of such tax exemption, it is hereby declared as a matter of legislative determination that an authority is and shall be deemed to be a municipal corporation. Bonds, notes, debentures and other evidences of

indebtedness of an authority heretofore or hereafter issued are declared to be issued for a public purpose and to be public instrumentalities and, together with the interest thereon, shall be exempt from taxes."

Sec. 8. G.S. 105-282 is rewritten to read as follows:

"§ 105-282. *Requests for tax relief; burden of proof; records of property given relief.*—(a) An owner of property who seeks to obtain tax relief for his property (through exemption or classification) under the laws of this State has the burden of establishing that the property is entitled thereto. In 1974, and each year thereafter, during the regular listing period, the owner seeking such relief shall file a request therefor with the tax supervisor of the county in which the property, real or personal, would be subject to taxation if taxable. If the property is situated within a city or town and the owner desires relief from municipal taxation, he shall also file a request for tax relief with the person responsible for municipal tax listing. Each such request shall be submitted on a form that has been approved by the Department of Revenue, and such forms shall be made available to owners by the tax supervisor or appropriate municipal tax official. If such a request is denied by a county, the tax supervisor shall notify the owner of this decision in time for him to appeal to the county board of equalization and review and to the Property Tax Commission as provided in G.S. 105-322 and G.S. 105-324. If such a request is denied by a city or town, the person responsible for preparing the municipal tax lists shall notify the owner of this decision in time for him to appeal to the governing body of the city or town and to the Property Tax Commission in accordance with the provisions of G.S. 105-326 or G.S. 105-328. Requests that are approved by a county shall be filed in the office of the county tax supervisor, and requests that are approved by a municipality shall be filed in the office designated by the unit's governing body. The United States, this State, and units of local government in this State are exempted from the requirement of this section that owners make formal request for tax relief. However, this exemption shall not be construed as relieving the State and local units of government from the duty of listing for taxation property that is not used for public purposes.

(b) *Failure to Request Tax Relief; Procedures.* If in any year an owner fails to submit a request for tax relief for his property as provided in subsection (a) above, and also fails to list the property for taxation, the county tax supervisor (and, if the property is situated within a city or town, the person responsible for municipal tax listing) shall treat the property as other unlisted property and proceed as provided in G.S. 105-312. If, upon appeal to the board of equalization and review or board of county commissioners as provided in that section, it is determined that the property is entitled to tax relief, the owner shall be permitted to submit his request for tax relief at that time. The provisions of G.S. 105-312 shall govern the rights, duties, and procedures applicable to the taxpayer, responsible officials, and affected units of local government. The owner's failure to request tax immunity in any year shall not affect his right to proceed under the provisions of subsection (a) above, to obtain tax relief for a subsequent year.

(c) *Roster.* The county tax supervisor shall prepare and maintain a roster of all property in the county that is granted tax relief through classification or exemption. As to affected real and personal property, the roster shall set forth:

(1) The name of the owner of the property.

- (2) A brief description of the property.
- (3) A statement of the use to which the property is put.
- (4) A statement of the value of the property.

The person responsible for preparing the tax lists of a city or town shall prepare and maintain a similar roster of all property in the municipality that is granted tax relief through classification or exemption.

(d) Report. The person required to prepare and maintain any roster prescribed by subsection (c), above, for the year 1974, shall, on or before November 1, 1974, send a duplicate copy thereof to the Department of Revenue and file the original in his office. In subsequent years, on or before November 1, the responsible official shall forward to the Department of Revenue a report of all changes made in the roster first submitted under this subsection."

Sec. 9. The fifth sentence of G.S. 55A-16, as it appears in lines 18 and 19 of the section in 1965 Replacement Volume 2B of the General Statutes of North Carolina, and which reads as follows, is repealed: "All property owned by it and appropriated exclusively for public parks and drives shall not be subject to taxation."

Sec. 10. The following portions of the General Statutes of North Carolina are repealed: G.S. 63-51.1, G.S. 63-52, G.S. 105-281, and paragraph g. of subdivision (b)(2) of G.S. 105-287.

Sec. 11. G.S. 105-283 is rewritten to read as follows:

"§ 105-283. *Uniform appraisal standards*.—All property, real and personal, shall as far as practicable be appraised or valued at its true value in money. When used in this Subchapter, the words 'true value' shall be interpreted as meaning market value, that is, the price estimated in terms of money at which the property would change hands between a willing and financially able buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of all the uses to which the property is adapted and for which it is capable of being used."

Sec. 12. G.S. 105-284 is rewritten to read as follows:

"§ 105-284. *Uniform assessment standard*.—All property, real and personal, shall be assessed for taxation at the valuation established under G.S. 105-283, and taxes levied by all counties and municipalities shall be levied uniformly on assessments determined as provided in this section."

Sec. 13. Subsection (a) of G.S. 105-328 is rewritten to read as follows:

"(a) For purposes of municipal taxation, all property subject to taxation by a city or town situated in two or more counties may, by resolution of the governing body of the municipality, be listed, appraised, and assessed as provided in G.S. 105-326 and 105-327 if, in such a case, in the opinion of the governing body, the same appraisal and assessment standards will thereby apply uniformly throughout the municipality. However, if, in such a case, the governing body shall determine that adoption of the appraisals and assessments fixed by the counties will not result in uniform appraisals and assessments throughout the municipality, the governing body may, by horizontal adjustments, equalize the appraisal and assessment values fixed by the counties in order to obtain the required uniformity. Taxes levied by the city or town shall be levied uniformly on the assessments so determined."

Sec. 14. Subdivision (3) of G.S. 105-273 is rewritten to read as follows:

"(3) 'Assessment' means both the tax value of property and the process by which the assessment is determined."

Sec. 15. Subdivision (4) of G.S. 105-273 is repealed and the remaining subdivisions of that section are renumbered accordingly.

Sec. 16. Subdivision (2) of G.S. 105-115 is rewritten to read as follows:

“(2) The value upon which the tax herein levied shall be assessed by the Secretary of Revenue and the measure of the extent to which every such railroad company is carrying on intrastate commerce within the State of North Carolina shall be fifty-five percent (55%) of the appraised value of the total property, tangible and intangible, in this State, for each such railroad company, as determined for ad valorem taxation during the calendar year in which such report is due.”

Sec. 17. Subsection (d) of G.S. 105-122 is rewritten to read as follows:

“(d) After determining the proportion of its total capital stock, surplus and undivided profits as set out in subsection (c) of this section, which amount so determined shall in no case be less than fifty-five percent (55%) of the appraised value as determined for ad valorem taxation of all the real and tangible personal property in this State of each such corporation plus the total appraised value of intangible property returned for taxation of intangible personal property as herein specified nor less than its total actual investment in tangible property in this State, every corporation taxed under this section shall annually pay to the Secretary of Revenue, at the time the report and statement are due, a franchise or privilege tax, which is hereby levied at the rate of one dollar and fifty cents (\$1.50) per one thousand dollars (\$1,000) of the total amount of capital stock, surplus and undivided profits as herein provided. The tax imposed in this section shall in no case be less than ten dollars (\$10.00) and shall be for the privilege of carrying on, doing business, and/or the continuance of articles of incorporation or domestication of each such corporation in this State: Provided, that the basis for the franchise tax on all corporations, eighty percent (80%) of whose outstanding capital stock is owned by persons or corporations to whom or to which such stock was issued prior to January 1, 1935, in part payment or settlement of their respective deposits in any closed bank of the State of North Carolina, shall be one half the appraised value as determined for ad valorem taxation of the real and tangible personal property of such corporation in this State for the calendar year next preceding the date on which report and statement is due under the provisions of this section. Appraised value of tangible property including real estate shall be the ad valorem valuation for the calendar year next preceding the due date of the franchise tax return. Appraised value of intangible property, except for bank deposits subject to tax under the provisions of G.S. 105-199, shall be the total gross valuation required to be reported for intangible tax purposes on April 15 coincident with or next preceding the due date of the franchise tax return. Appraised value of bank deposits subject to tax under the provisions of G.S. 105-199 shall be the average balance determined under such section for the calendar year next preceding the due date of the franchise tax return. The term ‘total actual investment in tangible property’ as used in this section shall be construed to mean the total original purchase price or consideration to the reporting taxpayer of its tangible properties, including real estate, in this State plus additions and improvements thereto less reserve for depreciation as permitted for income tax purposes, and also less any indebtedness incurred and existing by virtue of the purchase of any real estate and any permanent improvements made thereon. In computing ‘total actual investment in tangible personal property’ there shall also be deducted reserves

for the entire cost of any air cleaning device or sewage or waste treatment plant, including waste lagoons, and pollution abatement equipment purchased or constructed and installed which reduces the amount of air or water pollution resulting from the emission of air contaminants or the discharge of sewage and industrial wastes or other polluting materials or substances into the outdoor atmosphere or into streams, lakes, or rivers, upon condition that the corporation claiming such deduction shall furnish to the Secretary a certificate from the Board of Water and Air Resources certifying that said Board has found as a fact that the air cleaning device, waste treatment plant or pollution abatement equipment purchased or constructed and installed as above described has actually been constructed and installed and that such device, plant or equipment complies with the requirements of said Board with respect to such devices, plants or equipment, that such device, plant or equipment is being effectively operated in accordance with the terms and conditions set forth in the permit, certificate of approval, or other document of approval issued by the Board of Water and Air Resources and that the primary purpose thereof is to reduce air or water pollution resulting from the emission of air contaminants or the discharge of sewage and waste and not merely incidental to other purposes and functions. The cost of constructing facilities of any private or public utility built for the purpose of providing sewer service to residential and outlying areas shall be treated as deductible for the purposes of this section; the deductible liability allowed by this section shall apply only with respect to such pollution abatement plants or equipment constructed or installed on or after January 1, 1955.

In determining the total tax payable by any corporation under this section, there shall be allowed as credit on such tax the amount of intangible tax paid on bank deposits under the provisions of G.S. 105-199 to the extent that such deposits have been concurrently included in the alternative appraised value tax base pursuant to the provisions of this subsection except that the minimum tax herein provided shall not be less than ten dollars (\$10.00). In determining the total tax payable by any corporation under G.S. 105-115 there shall be allowed as credit on such tax the amount of intangible tax paid during the preceding franchise tax year on bank deposits under the provisions of G.S. 105-199."

Sec. 18. The last sentence of G.S. 105-339 is rewritten to read as follows:

"Each local taxing unit receiving such certified valuations shall assess them at the figures certified and shall tax the assessed valuations at the rate of tax levied against other property subject to taxation therein."

Sec. 19. Subsection (c) of G.S. 105-340 is rewritten to read as follows:

"(c) Each local taxing unit receiving certified valuations in accordance with this section shall assess them at the figures certified and shall tax the assessed valuations at the rate of tax levied against other property subject to taxation therein."

Sec. 20. The last sentence of G.S. 105-341 is rewritten to read as follows:

"Each local taxing unit receiving such certified valuations shall assess them at the figures certified and shall tax the assessed valuations at the rate of tax levied against other property subject to taxation therein."

Sec. 20.1. This act shall not repeal Chapter 290 (Senate Bill 685) or Chapter 484 (Senate Bill 705) of the Session Laws of 1973.

Sec. 21. Section 16 of this act shall be effective for taxable years beginning on and after January 1, 1973. Section 17 of this act shall be effective

for taxable years beginning on and after November 1, 1972. All other sections of this act shall become effective on January 1, 1974.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

S. B. 497

CHAPTER 696

AN ACT TO PERMIT DETENTION OF PUBLIC DRUNKS IN CERTAIN CIRCUMSTANCES.

The General Assembly of North Carolina enacts:

Section 1. Article 42 of Chapter 14 of the General Statutes is amended by adding thereto a new section, G.S. 14-335.1, to read as follows:

“§ 14-335.1. *Detention of public drunks.*—(a) Any law enforcement officer may take a public drunk into custody for the following purposes:

(1) Transporting him to his residence; or

(2) Transporting him to a detoxification center, or public or private hospital if such is available and willing to admit him; or

(3) Transporting him to an official authorized to issue warrants.

(b) For purpose of this section, “public drunk” means any person who is:

(1) Intoxicated to the extent of being unconscious or is substantially unable to control himself under the circumstances so as to create a risk of harm to himself or to the public; and

(2) Is in a public place.

(c) A law enforcement officer acting pursuant to this section and in good faith shall be exempt from civil and criminal liability arising out of the circumstances of the detention or transportation of the public drunk.”

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

S. B. 543

CHAPTER 697

AN ACT TO AMEND G.S. 126-8 WITH REGARD TO THE AMOUNT OF VACATION LEAVE WHICH IS TO BE GRANTED TO EACH STATE EMPLOYEE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 126-8, as the same appears in the 1971 Cumulative Supplement to Volume 3B of the General Statutes, is hereby amended by rewriting the first sentence to read as follows:

“The amount of vacation leave granted to each full-time State employee subject to the provisions of this Chapter shall be determined in accordance with a graduated scale established by the State Personnel Board which shall allow the equivalent rate of not less than two weeks’ vacation per calendar year, prorated monthly, cumulative to at least 30 days.”

Sec. 2. Notwithstanding any other provisions of this act, no full-time State employee subject to the provisions of Chapter 126 of the General Statutes, as the same appears in the Cumulative Supplement to Volume 3B of the General Statutes, on the effective date of this act shall be allowed less than the equivalent of three weeks’ vacation per calendar year, cumulative to at least 30 days.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

S. B. 681

CHAPTER 698

AN ACT TO AMEND PART 1, ARTICLE 21, CHAPTER 143, NORTH CAROLINA GENERAL STATUTES RELATING TO WATER AND AIR POLLUTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-214(a) is amended by adding a paragraph immediately following subdivision (9), as follows:

"No person who receives, or during the previous two years has received, a significant portion of his income directly or indirectly from permit holders or applicants for a permit shall be eligible to serve as a member of the Board. The Governor, by executive order, may promulgate criteria for determining the eligibility for persons under this provision, and for this purpose, may promulgate the rules, regulations or guidelines established by any federal agency interpreting and applying equivalent provisions of federal law."

Sec. 2. Part 1, Article 21, of Chapter 143 is hereby amended by adding a new section reading as follows:

"§ 143-214.2. *Prohibited discharges.*—(a) The discharge of any radiological, chemical or biological warfare agent or high-level radioactive waste to the waters of the State is prohibited.

(b) The discharge of any wastes to the subsurface or groundwaters of the State by means of wells is prohibited.

(c) The discharge of wastes, including thermal discharges, to the open waters of the Atlantic Ocean over which the State has jurisdiction are prohibited, except where such discharges are permitted pursuant to regulation duly adopted by the Board."

Sec. 3. G.S. 143-215.2 is hereby amended to read as follows:

"§ 143-215.2. *Special Orders.*—(a) Issuance. The Board is hereby empowered, after the effective date of classifications, standards and limitations adopted pursuant to G.S. 143-214.1 or G.S. 143-215, to issue (and from time to time to modify or revoke) a special order, or other appropriate instrument, to any person whom it finds responsible for causing or contributing to any pollution of the waters of the State within the area for which standards have been established. Such an order or instrument may direct such person to take, or refrain from taking such action, or to achieve such results, within a period of time specified by such special order, as the Board deems necessary and feasible in order to alleviate or eliminate such pollution. The Board is authorized to enter into consent special orders, assurances of voluntary compliance or other similar documents by agreement with the person responsible for pollution of the water and such document shall have the same force and effect as a special order of the Board issued pursuant to hearing.

(b) Procedure. No special order shall be issued by the Board (unless issued upon consent of the person affected thereby) except after a hearing in accordance with the procedural requirements specified in G.S. 143-215.4 and in any applicable rules of procedure of the Board. Every special order shall be based on and shall set forth the findings of fact resulting from evidence presented at

such hearing and shall specify the time within which the person against whom such order is issued shall achieve the results required by the special order.

(c) Appeals. Any person against whom a special order is issued shall have the right to appeal in accordance with the provisions of G.S. 143-215.5. Unless such appeal is taken within the prescribed time limit, the special order of the Board shall be final and binding.

(d) Effect of compliance. Any person who installs a treatment works for the purpose of alleviating or eliminating water pollution in compliance with the terms of, or as a result of the conditions specified in, a permit issued to G.S. 143-215.1, or a special order, consent special order, assurance of voluntary compliance or similar document issued pursuant to this section, or a final decision of the Board or a court, rendered pursuant to either of said sections, shall not be required to take or refrain from any further action nor be required to achieve any further results under the terms of this or any other State law relating to the control of water pollution, for a period to be fixed by the Board or court as it shall deem fair and reasonable in the light of all the circumstances after the date when such special order, consent special order, assurance of voluntary compliance, other document, or decision, or the conditions of such permit become finally effective, if:

- (1) The treatment works result in the elimination or alleviation of water pollution to the extent required by such permit, special order, consent special order, assurance of voluntary compliance or other document, or decision and complies with any other terms thereof; and
- (2) Such person complies with the terms and conditions of such permit, special order, consent special order, assurance of voluntary compliance, other document, or decision within the time limit, if any, specified therein or as the same may be extended, and thereafter remains in compliance."

Sec. 4. Subdivision (3) of G.S. 143-215.3(a) is amended to read as follows:

"(3) To conduct public hearings and to delegate the power to conduct public hearings in accordance with the procedures prescribed by this Article;"

Sec. 5. Subdivision (4) of G.S. 143-215.3(a) is hereby amended by rewriting the last sentence thereof to read as follows:

"Any employee of the Department of Natural and Economic Resources to whom a delegation of power is made to conduct a hearing shall report the hearing with its evidence and record to the Board."

Sec. 6. Subdivision (5) of G.S. 143-215.3(a) is amended to read as follows:

"(5) To institute such actions in the superior court of any county in which a violation of this Article or the rules or regulations of the Board has occurred, or, in the discretion of the Board, in the superior court of the county in which any defendant resides, or has his or its principal place of business, as the Board may deem necessary for the enforcement of any of the provisions of this Article or of any official action of the Board, including proceedings to enforce subpoenas or for the punishment of contempt of the Board;"

Sec. 7. G.S. 143-215.3 (a) is amended by rewriting subdivisions (8), (9), and (10), to read as follows:

"(8) After issuance of an appropriate order, to withhold the granting of any permit or permits pursuant to G.S. 143-215.1 or G.S. 143-215.73 for the

construction or operation of any new or additional disposal system or systems or air cleaning device or devices in any area of the State. Such order may be issued only upon determination by the Board, after public hearing held pursuant to the provisions of G.S. 143-215.4, that the permitting of any new or additional source or sources of water or air pollution will result in a generalized condition of water or air pollution within the area contrary to the public interest, detrimental to the public health, safety, and welfare, and contrary to the policy and intent declared in this Article. The Board may make reasonable distinctions among the various sources of water and air pollution and may direct that its order shall apply only to those sources which it determines will result in a generalized condition of water or air pollution.

The determination of the Board shall be supported by detailed findings of fact and conclusions set forth in the order and based upon competent evidence of record. The order shall describe the geographical area of the State affected thereby with particularity and shall prohibit the issuance of permits pending a determination by the Board that the generalized condition of water or air pollution has ceased.

Notice of hearing shall be given by publication at least once a week for two successive weeks in a newspaper or newspapers having general circulation within the area, the date of the first publication to be at least 20 days prior to the date of hearing; and by registered or certified mail at least 20 days in advance of hearing to the governing body of each county, city, town, metropolitan sewerage district, water and sewer district and any other political subdivision lying, in whole or in part, within the area; to every person within the area whose permit application is pending; to every affected or interested agency of local, State, and federal government; and to any other person whom the Board believes to have a direct interest therein.

Any person who is adversely affected by the order of the Board may seek judicial review of the order pursuant to the provisions of G.S. 143-215.5; and the order shall not be stayed by the appeal.

(9) If an investigation conducted pursuant to this Article reveals a violation of any regulations, standards, or limitations adopted by the Board pursuant to this Article, or a violation of any terms or conditions of any permit issued pursuant to G.S. 143-215.1 or G.S. 143-215.73, or special order or other document issued pursuant to G.S. 143-215.2 or G.S. 143-215.74, the Board may assess the reasonable costs of any investigation, inspection or monitoring survey which revealed the violation against the person responsible therefore. If the violation resulted in an unauthorized discharge to the waters or atmosphere of the State, the Board may also assess the person responsible for the violation for any actual and necessary costs incurred by the State in removing, correcting or abating any adverse effects upon the water or air resulting from the unauthorized discharge. If the person responsible for the violation refuses or fails within a reasonable time to pay any sums assessed, the Board may institute a civil action in the superior court of the county in which the violation occurred or, in the Board's discretion, in the superior court of the county in which such person resides or has his or its principal place of business, to recover such sums.

(10) To require any laboratory facility performing or seeking to perform any tests, analyses, measurements, or monitoring required by this Article or regulations of the Board implementing the provisions of this Article to be certified by the Board in accordance with standards established for such

facilities in its regulations; and to charge a reasonable fee for certifying any such laboratory facility.”

Sec. 8. G.S. 143-215.3(a)(12) is amended by renumbering subdivision (12) as subdivision (11).

Sec. 9. G.S. 143-215.3 is amended by adding thereto a new subsection (e), reading as follows:

“(e) Variances. Any person subject to the provisions of G.S. 143-215.1 or G.S. 143-215.73 may apply to the Board for a variance from rules, regulations, standards or limitations established pursuant to G.S. 143-214.1, G.S. 143-215, or G.S. 143-215.72. The Board may grant such variance, but only after public hearing on due notice, if it finds that:

- a. The discharge of waste or the emission of air contaminants occurring or proposed to occur do not endanger human health or safety; and
- b. Compliance with the rules, regulations, standards or limitations from which variance is sought cannot be achieved by application of best available technology economically achievable at the time of application for such variance, or would produce serious hardship without equal or greater benefits to the public.”

Sec. 10. G.S. 143-215.4 is hereby amended by adding “hearing officer” to the tag line and by adding a new subsection (e) as follows:

“(e) One or more qualified employees of the Department of Natural and Economic Resources may be designated as hearing officers to conduct any hearings provided for in this Article in accordance with the procedures established for such hearings by law and the official rules and regulations of the Board. Unless otherwise provided in the Board’s regulations, an order or decision of a hearing officer shall be final and to the same effect as an order or decision of the Board. Appeal from a final order or decision of a hearing officer shall be as provided in G.S. 143-215.5.”

Sec. 11. G.S. 143-215.5 is hereby amended to read as follows:

“§ 143-215.5. *Judicial review.*—(a) Any person against whom a final order or decision has been entered by a hearing officer pursuant to G.S. 143-215.4(d) shall be entitled to a review of the order or decision by the full Board upon written demand by such person within 10 days following notice of the order or decision given by registered or certified mail. The Board shall review the order or decision, the transcript of evidence and exhibits submitted at hearing, and other pertinent matters, and, if good ground be shown therefor, shall reconsider the evidence, receive further evidence, rehear the parties or their representatives, and affirm, modify, or vacate the order or decision. If the order or decision was entered pursuant to a hearing conducted by a member or members of the Board, such member or members shall be disqualified from sitting in review of the order or decision. A majority of the members of the Board shall constitute the full Board on review.

(b) Any person against whom a final order or decision of the Board is entered pursuant to hearing conducted by the Board under G.S. 143-215.4(d), or is entered upon review of an order or decision by a hearing officer or member or members of the Board to whom such authority has been duly delegated, may appeal from the order or decision of the Board within 30 days after receipt of notice by registered or certified mail of the order or decision, but not thereafter, to the Superior Court of Wake County or of the county where the order or decision is effective. Upon such appeal the Board shall send a certified transcript

of all testimony and exhibits introduced before the Board, the order or decision, and the notice of appeal to the superior court. The matter on appeal shall be heard and determined de novo on the transcript certified to the court and any evidence or additional evidence as shall be competent under rules of evidence then applicable to trials in the superior court without a jury upon any question of fact; provided, the court shall allow any party to introduce evidence or additional evidence upon any question of fact. At the conclusion of the hearing, the judge shall make findings of fact and enter his decision thereto. Appeals from the judgment and orders of the superior court shall lie to the Court of Appeals. No bond shall be required of the Board to the Court of Appeals.

- (1) Upon appeal filed by any party, the Board shall forthwith furnish each party to the proceeding with a copy of a certified transcript and exhibits filed with the Board. A reasonable charge shall be paid the Board for said copies.
- (2) Within 15 days after receipt of copy of certified transcript and exhibits, any party may file with the court exceptions to the accuracy or omissions of any evidence or exhibits included in or excluded from said transcript."

Sec. 12. G.S. 143-215.6 is hereby amended to read as follows:

"§ 143-215.6. *Enforcement procedures.*—(a) Civil penalties.

- (1) A civil penalty of not more than five thousand dollars (\$5,000) may be assessed by the Board against any person who:

- a. Violates any classification, standard or limitation established pursuant to G.S. 143-214.1 or G.S. 143-215.
- b. Is required but fails to apply for or to secure a permit required by G.S. 143-215.1, or who violates or fails to act in accordance with the terms, conditions, or requirements of such permit.
- c. Violates or fails to act in accordance with the terms, conditions, or requirements of any special order or other appropriate document issued pursuant to G.S. 143-215.2.
- d. Fails to file, submit, or make available, as the case may be, any documents, data or reports required by this Article.
- e. Refuses access to the Board or its duly designated representatives to any premises for the purpose of conducting any investigations provided for in this Article.
- f. Violates any duly adopted regulation of the Board implementing the provisions of this Article.

- (2) If any action or failure to act for which a penalty may be assessed under this subsection is willful, the Board may assess a penalty not to exceed five thousand dollars (\$5,000) per day for so long as the violation continues.

- (3) The Board may assess the penalties provided for in this subsection. Any person assessed shall be notified of the assessment by registered or certified mail, and the notice shall specify the reasons for the assessment. If the person assessed fails to pay the amount of the assessment to the Department of Natural and Economic Resources within 30 days after receipt of notice, or such longer period, not to exceed 180 days, as the Board may specify, the Board may institute a civil action in the superior court of the county in which the violation occurred or, in the discretion of the Board, in the superior court of the county in which the person

assessed resides or has his or its principal place of business, to recover the amount of the assessment. In any such civil action, the scope of the court's review of the Board's action (which shall include a review of the amount of the assessment), shall be as provided in G.S. 143-315.

(b) Criminal penalties.

(1) Any person who willfully or negligently violates any classification, standard or limitation established pursuant to G.S. 143-214.1 or G.S. 143-215; any term, condition, or requirement of a permit issued pursuant to G.S. 143-215.1 or of a special order or other appropriate document issued pursuant to G.S. 143-215.2; or any regulation of the Board implementing any of the said sections, shall be guilty of a misdemeanor punishable by a fine not to exceed twenty-five thousand dollars (\$25,000) per day of violation, or by imprisonment not to exceed six months, or by both.

(2) Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Article or regulations of the Board implementing this Article, or who falsifies, tampers with, or knowingly renders inaccurate any recording or monitoring device or method required to be operated or maintained under this Article or regulations of the Board implementing this Article, shall be guilty of a misdemeanor punishable by a fine not to exceed ten thousand dollars (\$10,000), or by imprisonment not to exceed six months, or by both.

(3) Any person convicted of an offense under either subdivision (1) or subdivision (2) of this subsection following a previous conviction under such subdivision shall be subject to a fine, or imprisonment, or both, not exceeding twice the amount of the fine, or twice the term of imprisonment provided in the subdivision under which the second or subsequent conviction occurs.

(4) For purposes of this subsection, the term "person" shall mean, in addition to the definition contained in G.S. 143-213, any responsible corporate or public officer or employee; provided, however, that where a vote of the people is required to effectuate the intent and purpose of this Article by a county, city, town, or other political subdivision of the State, and the vote on the referendum is against the means or machinery for carrying said intent and purpose into effect, then, and only then, this subsection shall not apply to elected officials or to any responsible appointed officials or employees of such county, city, town, or political subdivision.

(c) Injunctive relief. Whenever the Department of Natural and Economic Resources has reasonable cause to believe that any person has violated or is threatening to violate any of the provisions of this Article or any regulations adopted by the Board implementing the provisions of this Article, the Department of Natural and Economic Resources may, either before or after the institution of any other action or proceeding authorized by this Article, request the Attorney General to institute a civil action in the name of the State upon the relation of the Department of Natural and Economic Resources for injunctive relief to restrain the violation or threatened violation and for such other and further relief in the premises as the court shall deem proper. The

Attorney General may institute such action in the superior court of the county in which the violation occurred or may occur or, in his discretion, in the superior court of the county in which the person responsible for the violation or threatened violation resides or has his or its principal place of business. Upon a determination by the court that the alleged violation of the provisions of this Article or the regulations of the Board has occurred or is threatened, the court shall grant the relief necessary to prevent or abate the violation or threatened violation. Neither the institution of the action nor any of the proceedings thereon shall relieve any party to such proceedings from any penalty prescribed for violation of this Article."

Sec. 13. G.S. 143-215.8 is hereby amended to read as follows:

"§ 143-215.8. *Planning.*—(a) Policy, purpose and intent. The Board and Department of Natural and Economic Resources shall undertake a continuing planning process to develop and adopt plans and programs to assure that the policy, purpose and intent declared in this Article are carried out with regard to establishing and enforcing standards of water purity designed to protect human health, to prevent injury to plant and animal life, to prevent damage to public and private property, to enhance the quality of the environment, to insure the continued enjoyment of the natural attractions of the State, to encourage the expansion of employment opportunities, to provide a permanent foundation for healthy industrial development, and to insure the beneficial use of the water resources of the State.

(b) Goals. The goals of the continuing planning process shall be the enhancement of the quality of life and protection of the environment through development by the Board of water quality plans and programs utilizing the resources of the State on a priority basis to attain, maintain, and enhance water quality standards and water purity throughout the State.

(c) Statewide and regional planning. The planning process may be conducted on a statewide or regional basis, as the Board shall determine appropriate. If the Board elects to proceed on a regional basis, it shall delineate the boundaries of each region by preparation of appropriate maps; by description referring to geographical features, established landmarks or political boundaries; or such other manner that the extent and limits of each region shall be easily ascertainable. The Board shall consult officials and agencies of localities and regions in the development of plans affecting those areas.

(d) Local planning organizations. The Board shall submit to the Governor or his designee any plans, projections, data, comments or recommendations that he may request. If the Governor determines that the goals of this section will be more expeditiously and efficiently achieved, he may designate a representative organization, capable of carrying out a planning process for any region of the State or area therein, to develop plans, consistent with the State's water quality management plans, for the control or abatement of water pollution within such region or area. The Board shall consult with, advise, and assist any organization so designated in the preparation of its plans and shall submit to the Governor the Board's comments and recommendations regarding such plans. All such organizations shall submit plans developed by them to the Governor for review, and no plan shall be effective until concurred in and approved by him.

(e) Interstate planning regions. The Governor may consult and cooperate with the governor of any adjoining state in establishing an interstate planning region or area and in designating a representative organization, capable of

carrying out a planning process for the region or area, to develop plans, consistent with the State's water quality management plans, for the control or abatement of water pollution within such region or area, if he determines that such region or area has common water quality control problems for which an interstate plan would be most effective.

(g) The Board shall establish procedures for the development, revision and modification of plans under this section through adoption of appropriate rules and regulations. The rules and regulations of the Board shall establish procedures for public hearing on all plans prior to their adoption, modification or revision, and upon adoption, they shall become the official water quality management plans of the State."

Sec. 14. G.S. 143-215.13 is amended by adding thereto a new subsection (d), reading as follows:

"(d) The Board may conduct a public hearing pursuant to the provisions of G.S. 143-215.4 in any area of the State, whether or not a capacity use area has been declared, when it has reason to believe that the withdrawal of water from or the discharge of water pollutants to the waters in such area is having an unreasonably adverse effect upon such waters. If the Board determines, pursuant to hearing, that withdrawals of water from or discharge of water pollutants to the waters within such area has resulted or probably will result in a generalized condition of water depletion or water pollution within the area to the extent that the availability or fitness for use of such water has been impaired for existing or proposed uses and that injury to the public health, safety or welfare will result if increased or additional withdrawals or discharges occur, the Board may issue an order:

- (1) Prohibiting any person withdrawing waters in excess of one hundred thousand (100,000) gallons per day from increasing the amount of the withdrawal above such limit as may be established in the order.
- (2) Prohibiting any person from constructing, installing or operating any new well or withdrawal facilities having a capacity in excess of a rate established in the order; but such prohibition shall not extend to any new well or facility having a capacity of less than ten thousand (10,000) gallons per day.
- (3) Prohibiting any person discharging water pollutants to the waters from increasing the rate of discharge in excess of the rate established in the order.
- (4) Prohibiting any person from constructing, installing or operating any facility that will or may result in the discharge of water pollutants to the waters in excess of the rate established in the order.
- (5) Prohibiting any agency or political subdivision of the State from issuing any permit or similar document for the construction, installation, or operation of any new or existing facilities for withdrawing water from or discharging water pollutants to the waters in such area in excess of the rates established in the order.

The determination of the Board shall be supported by detailed findings of fact and conclusions set forth in the order and based upon competent evidence of record. The order shall describe the geographical area of the State affected thereby with particularity and shall provide that the prohibitions set forth therein shall continue pending a determination by the Board that the

generalized condition of water depletion or water pollution within the area has ceased.

Notice setting forth the time, place and purpose of the hearing and a description by geographical or political boundaries of the area affected shall be given:

- (1) By publication at least once a week for two successive weeks in a newspaper or newspapers having general circulation within the area, the date of the first publication to be at least 20 days prior to the date of hearing;
- (2) By mailing copies of the notice by registered or certified mail at least 20 days in advance of hearing to the governing body of every county, city, town, and affected political subdivision lying in whole or in part within the area and to every affected or interested State and federal agency; and
- (3) By posting a copy of the notice at the courthouse in every county lying in whole or in part, within the area.

The Board is also authorized, in the exercise of its discretion, to mail copies of notice by first class mail to any person who it believes will or may be interested in or affected by the hearing.

Upon issuance of any order by the Board pursuant to this subsection, a certified copy of such order shall be mailed by registered or certified mail to the governing body of every county, city, town, and affected political subdivision lying, in whole or in part, within the area and to every affected or interested State and federal agency. A certified copy of the order shall be posted at the courthouse in every county lying, in whole or in part, within the area, and a notice setting forth the substantive provisions and effective date of the order shall be published once a week for two successive weeks in a newspaper or newspapers having general circulation within the area. After publication of notice is completed, any person violating any provision of such order after the effective date thereof shall be subject to the penalties and proceedings set forth in G.S. 143-215.17.

Any person who is adversely affected by an order of the Board issued pursuant to this subsection may seek judicial review of the order pursuant to the provisions of G.S. 143-215.5; and the order shall not be stayed by the appeal."

Sec. 15. G.S. 143-215.15(g) is amended by striking from the fifth and sixth sentences thereof the words "Supreme Court" and substituting therefor the words "Court of Appeals".

Sec. 16. G.S. 143-215.17(b) is amended by rewriting it to read as follows:

"(b) Civil actions. In addition, upon violation of any of the provisions of this Part, or the regulations of the Board hereunder, the Secretary of the Department may, either before or after the institution of proceedings for the collection of the penalty imposed by this Part for such violation, institute, either in the county in which the violation occurred, or, at the Secretary's discretion, in the county wherein the violator resides or has his or its principal place of business, a civil action in the superior court in the name of the State upon relation of the Secretary of the Department for injunctive relief to restrain the violation and for such other or further relief in the premises as said court shall deem proper. Neither the institution of the action nor any of the

proceedings thereon shall relieve any party to such proceedings from the penalty prescribed by this Part for any violation of the same."

Sec. 17. G.S. 143-215.3(a) is amended by adding thereto a new subdivision, reading as follows:

"To certify and approve for eligibility any qualified application for State or federal grant funds available for the construction, modification, extension, maintenance, or operation of a disposal system or portion thereof. As a condition of certification and approval of any such application and of the permit issued pursuant to G.S. 143-215.1, the Board may require that the applicant conform to all applicable requirements of the State or federal laws and programs under which said grant funds are available."

Sec. 18. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 19. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. B. 635

CHAPTER 699

AN ACT TO PROVIDE FOR SETTLEMENT OF TORT CLAIMS BY THE ATTORNEY GENERAL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-295 as the same appears in the 1971 Cumulative Supplement to Volume 3C of the General Statutes is hereby rewritten to read as follows:

"§ 143-295. *Settlement of claims.*—(a) Any claim hereinafter filed pursuant to this Article with the Industrial Commission may be settled upon agreement between the claimant and the Attorney General without a formal hearing, subject only to approval by the Industrial Commission.

(b) Transfer of title of any motor vehicle acquired in behalf of the State in settlement of a claim pursuant to the provisions of this Article may be transferred by the Attorney General in the same manner as title is transferred by an insurance company under the provisions of G.S. 20-75."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. B. 809

CHAPTER 700

AN ACT TO AMEND THE CHARTER OF THE CITY OF GREENSBORO, AS REVISED AND REORGANIZED BY CHAPTER 1137 OF THE SESSION LAWS OF 1959, AND AS AMENDED, TO GRANT AUTHORITY TO ENGAGE IN MANPOWER DEVELOPMENT AND DRUG ACTION PROGRAMS.

The General Assembly of North Carolina enacts:

Section 1. Chapter IV, Subchapter B, Article 1 of the Charter of the City of Greensboro, as set forth in Section 1, Chapter 1137 of the Session Laws of 1959, is amended by adding a new section following Section 4.52 as follows:

"Sec. 4.53. *Authority to engage in manpower development and drug action programs.*—(a) Subject to the conditions hereinafter set forth, the City of Greensboro, through its governing body, shall have the power to undertake, endorse, administer, operate and maintain, and to expend non-ad valorem tax funds for 'manpower development programs' and 'drug action programs' for the purpose of serving the public interest and well-being of the community and its citizens; provided, such powers may be exercised only within the jurisdictional boundaries as may be lawfully exercised by the City of Greensboro. In order for the City to participate, any such programs shall be partially or wholly financed by State or federal funds or both. The aforementioned powers may be exercised only with respect to those certain programs in which the County of Guilford does not participate and has no immediate plans to participate. However, the City of Greensboro may participate with the County of Guilford jointly upon mutual consent of both governing bodies.

(b) The City Council may appoint such committees or boards as it may deem necessary in carrying out such programs and may authorize the employment of personnel. In undertaking and engaging in such programs, the City Council may enter into contracts with and accept grants from appropriate branches of the State and federal governments.

(c) The powers granted herein are not intended to encroach in any manner upon the powers, duties and responsibilities of Guilford County in any health, social, educational or welfare programs being administered by said county.

(d) The provisions of state law granting the powers to municipalities to engage in community action programs shall not be applicable to the City of Greensboro."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. B. 852

CHAPTER 701

AN ACT TO AMEND CHAPTER 576 OF THE SESSION LAWS OF 1951 PROVIDING SUPPLEMENTAL BENEFITS FOR RETIRED FIREMEN OF THE FIRE DEPARTMENT OF THE CITY OF DURHAM.

The General Assembly of North Carolina enacts:

Section 1. Chapter 576 of the Session Laws of 1951, as amended, is hereby further amended by adding the following at the end of Section 5:

"Provided, however, notwithstanding any other provision of this act, which determines the amount paid a retired fireman, the Board in its discretion is hereby authorized to pay an additional amount to every retired fireman of the Durham Fire Department, both present and future. The Board of Trustees herein created is authorized to adjust such payment and other expenditures to remain within the funds available from interest on investments and from amounts received from the Firemen's Relief Fund. It is the intent of this proviso to pay this additional amount to every retired fireman and not subject to the limitations contained in this act."

Sec. 2. Chapter 614 of the 1971 Session Laws is hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. B. 1046

CHAPTER 702

AN ACT TO MAKE CERTAIN EDITORIAL AND TECHNICAL CHANGES IN CHAPTER 114 OF THE GENERAL STATUTES, THE DEPARTMENT OF JUSTICE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 114-1 is amended by striking the word "eighteen" appearing in line 3, and substituting in lieu thereof the word "seven".

Sec. 2. G.S. 114-2 is amended (a) by rewriting subsection (1), as follows:

"(1) To defend all actions in the appellate division in which the State shall be interested, or a party, and to appear for the State in any other court or tribunal in any cause or matter, civil or criminal, in which the State may be a party or interested."

and (b) by striking subsections (2) and (3) and substituting in lieu thereof the following:

"(2) To represent all State departments, agencies, institutions, commissions, bureaus or other organized activities of the State which receive support in whole or in part from the State."

and (c) by renumbering subsections 4, 5, 6, 7 and 8, respectively as subsections 3, 4, 5, 6 and 7.

Sec. 3. The first sentence of G.S. 114-4, which now reads: "The Attorney General shall be allowed to appoint five assistant attorneys general and each of such attorneys general shall be subject to all the provisions of Chapter 126 of the General Statutes relating to the State Personnel System.", is rewritten to read:

"The Attorney General shall be allowed to appoint from among his staff such number of assistant attorneys general as he shall deem advisable, and each of such assistant attorneys general shall be subject to all of the provisions of Chapter 126 of the General Statutes relating to the State Personnel System."

Sec. 4. G.S. 114-4.1 is repealed.

Sec. 5. G.S. 114-4.2 is rewritten to read:

"The Attorney General is authorized to appoint from among his staff such assistant attorneys general and such other staff attorneys as he shall deem advisable to provide all legal assistance for the State highway functions of the Department of Transportation and Highway Safety, and such assistant attorneys general and other attorneys shall also perform such additional duties as may be assigned to them by the Attorney General, and shall otherwise be subject to all provisions of the statutes relating to assistant attorneys general and other staff attorneys. There shall be appropriated from the State Highway Fund such sum as may be necessary to pay the salaries of said assistant attorneys general and other attorneys and necessary secretaries. The Department of Transportation and Highway Safety shall provide adequate office space, equipment and supplies."

Sec. 6. G.S. 114-4.2(a) is rewritten to read:

"Such assistant attorneys general as are assigned to the Commissioner of Insurance and the State Insurance Department by the Attorney General shall perform such additional duties as may be assigned to them by the Attorney General, and shall otherwise be subject to all provisions of the statutes relating to assistant attorneys general."

Sec. 7. G.S. 114-4.3 is repealed.

Sec. 8. G.S. 114-4.4 is rewritten to read:

"The Attorney General is hereby authorized to designate from among his staff such deputy attorneys general as he shall deem advisable to perform such duties and undertake such responsibilities as he may direct."

Sec. 9. It is not the intention of this act to amend G.S. 62-21, or any other provision of Chapter 62 of the General Statutes relating to representation of the Utilities Commission.

Sec. 10. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. B. 1099

CHAPTER 703

AN ACT AMENDING CHAPTER 369, SESSION LAWS OF 1949, RELATIVE TO THE SUBDIVISION REVIEW BOARD OF THE CITY OF DURHAM BY AUTHORIZING THE GOVERNING BODY OF THE CITY OF DURHAM TO APPOINT BETWEEN FOUR AND SIX MEMBERS THERETO RATHER THAN BETWEEN THREE AND FIVE MEMBERS.

The General Assembly of North Carolina enacts:

Section 1. That Section 3 of Chapter 369 of the Session Laws of 1949 be, and the same is hereby, amended by deleting the word "three" in the third line of said section and substituting instead the word "four" and by further deleting the word "five" from the third line of said section and substituting instead the word "six".

Sec. 2. This act shall apply only to the City of Durham.

Sec. 3. This act shall be in full force and effect upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. B. 1158

CHAPTER 704

AN ACT TO AMEND G.S. 7A-27 TO PROVIDE THAT APPEALS IN CRIMINAL CASES AFTER PLEAS OF GUILTY OR NOLO CONTENDERE SHALL BE ONLY BY WRIT OF CERTIORARI.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-27(a) and (b) are rewritten to read as follows:

“(a) From a judgment of a superior court which includes a sentence of death or imprisonment for life, unless the judgment was based on a plea of guilty or nolo contendere, appeal lies of right directly to the Supreme Court.

(b) From any final judgment of a superior court, other than one described in subsection (a) of this section, or one based on a plea of guilty or nolo contendere, or one entered in a post-conviction hearing under Article 22 of Chapter 15, including any final judgment entered upon review of a decision of an administrative agency, appeal lies of right to the Court of Appeals.”

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. B. 1175

CHAPTER 705

AN ACT TO PROVIDE FOR WAIVER OF COLOR PHOTO REQUIREMENT OF DRIVER'S LICENSE WHEN IN CONFLICT WITH LICENSEE'S RELIGIOUS CONVICTIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-7(n) as same appears in the 1971 Cumulative Supplement to Volume 1C of the General Statutes of North Carolina is hereby amended by inserting the following proviso in line 8 thereof immediately following the word “thereon”:

“provided the requirement that a color photograph of the licensee appear on the license may be waived by the Commissioner upon satisfactory proof that the taking of such photograph violates the religious convictions of the licensee.”

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. B. 1178

CHAPTER 706

AN ACT TO AMEND CHAPTER 141 OF THE SESSION LAWS OF 1973 TO EFFECT A TECHNICAL CORRECTION.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 141 of the Session Laws of 1973 is amended by striking out the number “3” at the end of the section and inserting in lieu thereof the number “31”.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. B. 1200

CHAPTER 707**AN ACT TO PROVIDE FOR THE NOMINATION AND ELECTION OF
THE MEMBERS OF THE HOKE COUNTY BOARD OF EDUCATION.***The General Assembly of North Carolina enacts:*

Section 1. The Hoke County Board of Education shall consist of five members, to be elected by the voters of the county on a non-partisan basis as herein provided, who shall serve for a term of four years. The term of office of each member shall begin on the first Monday in December, next succeeding his election, and shall serve until a successor has been elected and qualified; provided, that the present members of the Hoke County Board of Education shall continue to hold their offices until the first Monday in December, 1974, or until their successors are elected and qualified.

Sec. 2. At the regular general county election held for Hoke County in 1974, there shall be elected five members of the Hoke County Board of Education. The three candidates receiving the highest number of votes in said election shall be elected for terms of four years and the two members receiving the next highest number of votes shall be elected for terms of two years. Thereafter, biennially there shall be elected members of the Hoke County Board of Education to succeed the members whose terms next expire.

Sec. 3. The election for members of the Hoke County Board of Education shall be conducted as set forth in Section 2 herein, and at said election a separate ballot entitled "School Board" shall be used and such ballots shall be distributed to all qualified voters desiring to vote in said election without regard to the political affiliation of said voters; provided, nothing herein shall be construed to exclude an independent or person not affiliated with either of the major parties from voting in said election.

Sec. 4. All vacancies in the membership of the Hoke County Board of Education by death, resignation, or other causes shall be filled by appointment by the remaining members of the Board, of such a person to serve until the next election of members of such Board, at which time the remaining unexpired term of the office in which the vacancy occurs shall be filled by election.

Sec. 5. Chapter 228 of the Session Laws of 1969 is repealed.

Sec. 6. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. B. 1223

CHAPTER 708**AN ACT TO PROVIDE A MEANS OF IDENTIFICATION FOR
COMMERCIAL FISHERMEN FOR SALES TAX EXEMPTION
PURPOSES.***The General Assembly of North Carolina enacts:*

Section 1. G.S. 105-164.13(9) is amended by adding the following sentences at the end thereof:

"'Commercial Fishermen' as used in this section means only those persons licensed by the Department of Natural and Economic Resources to fish commercially, under the provisions of G.S. 113-154 and 113-155. An unexpired identification card issued to a licensed commercial fisherman pursuant to the provisions of G.S. 113-155.1 shall be proof of the licensee's status as a

commercial fisherman for the purposes of this section. However, the exemption provided for herein shall not be denied to a commercial fisherman merely because he does not have or display such identification card."

Sec. 2. Article 14 of Chapter 113 of the General Statutes is amended by adding thereto a new G.S. 133-155.1, to read as follows:

"§ 133-155.1. *Commercial fishermen; identification.*—Upon request by a licensed commercial fisherman, the Department of Natural and Economic Resources shall issue to him a suitable card which shall identify him as a commercial fisherman. Each identification card issued shall bear an expiration date, which date shall be the date on which the license issued to such fisherman expires, and such card may be renewed annually for so long as a valid commercial fishing license is in effect. The Secretary of Natural and Economic Resources shall prescribe the form and contents of such identification cards and shall promulgate the necessary rules and regulations relative to their issuance."

Sec. 3. This act shall become effective on July 1, 1973.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

S. B. 416

CHAPTER 709

AN ACT TO PROVIDE FOR THE CLASSIFICATION, APPRAISAL, ASSESSMENT AND TAXATION OF AGRICULTURAL, HORTICULTURAL AND FOREST LAND.

The General Assembly of North Carolina enacts:

Section 1. Article 12 of Chapter 105 of the General Statutes of North Carolina is hereby amended by adding the following sections thereto to be numbered and to read as follows:

"§ 105-277.2. *Classifications.*—(a) The following classes of property are hereby designated special classes of property under authority of Article V, Section 2(2) of the North Carolina Constitution and shall be appraised, assessed and taxed as hereinafter provided:

(1) Individually owned agricultural land, consisting of 10 acres or more and having gross income from the sale of agricultural products produced thereon (together with any payments received under a governmental soil conservation or land retirement program) averaging one thousand dollars (\$1,000) per year for each of the three years immediately preceding January 1 of the year for which the benefit of this section is claimed.

(2) Individually owned horticultural land, consisting of 10 acres or more and having gross income from the sale of horticultural products produced thereon (together with any payments received under a governmental soil conservation or land retirement program) averaging one thousand dollars (\$1,000) per year for each of the three years immediately preceding January 1 of the year for which the benefit of this section is claimed.

(3) Individually owned forest land, consisting of 20 acres or more unless the property is included in a farm unit qualifying under G.S. 105-277.2(a)(1).

(b) In order to come within a classification described in subdivision(a)(1), (2) or (3), above, the property must also be:

(1) The owner's place of residence; or

(2) Owned by the present owner, by his siblings, or by one or both of his parents for the seven years immediately preceding January 1 of the year for which the benefit of this section is claimed.

“§ 105-277.3. *Definitions.*—For the purposes of this section the following definitions shall apply:

(1) ‘Land’ includes land and land improvements but not buildings or other improvements.

(2) ‘Agricultural land’ means land, including woodland and wasteland which form a contiguous part thereof, constituting a farm unit actively engaged in the commercial production or growing of crops, plants, or animals under a sound management program.

(3) ‘Horticultural land’ means land constituting a horticultural unit actively engaged in the commercial production or growing of fruits, vegetables, nursery or floral products under a sound management program.

(4) ‘Forest land’ means land constituting a forest unit actively engaged in the commercial growing of trees under a sound management program.

(5) ‘Sound management program’ means a program of production designed to obtain the greatest net return from the land consistent with its conservation and long-term improvement.

(6) ‘Present use value’ means the price estimated in terms of money at which the property would change hands between a willing and financially able buyer and a willing seller, neither being under any compulsion to buy or to sell, assuming that both of them have reasonable knowledge of the capability of the property to produce income in its present use and that the present use of the property is its highest and best use.

(7) Individually owned land (agricultural, horticultural or forest) means land, exclusive of buildings thereon, owned by a natural person or persons and not a corporation.

“§ 105-277.4. *Application for taxation at present use value.*—(a) Property coming within one of the classes defined in G.S. 105-277.2 but having a greater value for other uses shall be eligible for taxation on the basis of the value of the property in its present use if a timely and proper application is filed with the tax supervisor of the county in which the property is located. The application shall clearly show that the property comes within one of the classes and shall also contain any other relevant information required by the tax supervisor in properly appraising the property at its present use value. The application shall be filed annually during the regular listing period. If, in the opinion of the tax supervisor, the property does not meet the requirements of this section, he shall deny the application. Decisions of the tax supervisor may be appealed to the county board of equalization and review or, if that board is not in session, to the board of county commissioners. Decisions of the county board may be appealed to the Property Tax Commission as provided in G.S. 105-324.

(b) Upon receipt of a properly executed application, the tax supervisor shall appraise the property at its present use value as of January 1 of the year for which the application is filed. The property owner may appeal the present use appraisal to the board of equalization and review or, if that board is not in session, to the board of county commissioners and from the county board to the Property Tax Commission. Except for valuation changes made necessary by changes in the number of acres qualified for classification or by changes in the nature of the operations of a qualifying owner, the present use appraisal

established in the year of the initial application shall continue in effect until a revaluation of all property in the county is conducted under the provisions of G.S. 105-286. If all or any part of a qualifying tract of land is located within the limits of an incorporated city or town, the tax supervisor shall furnish a copy of the property record showing both the present use appraisal and the valuation upon which the property would have been taxed in the absence of this classification to the tax collector of the city or town. He shall also notify the tax collector of any changes in the appraisals or in the eligibility of the property for the benefit of this classification.

(c) Property meeting the conditions herein set forth shall be taxed on the basis of the value of the property for its present use. The difference between the taxes due on the present use basis and the taxes which would have been payable in the absence of this classification shall be a lien on all the real property of the taxpayer as provided in G.S. 105-355(a), shall be carried forward in the records of the taxing unit or units as deferred taxes, but shall not be payable, unless and until the owner disposes of the property or the property loses its eligibility for the benefit of this classification for some other reason. The tax for the fiscal year that opens in the calendar year in which a disqualification occurs shall be computed as if the property had not been classified for that year, and taxes for the preceding five fiscal years which have been deferred as provided herein, shall immediately be payable, together with interest thereon as provided in G.S. 105-360 for unpaid taxes which shall accrue on the deferred taxes due herein as if they had been payable on the dates on which they originally became due. If only a part of a qualifying tract of land loses its eligibility, a determination shall be made of the amount of deferred taxes applicable to that part and that amount shall become payable with interest as provided above.

“§ 105-277.5. *Notice of change in use.*—Not later than the close of the listing period following a change in use or disposal of property receiving the benefit of this classification, the property owner shall furnish the tax supervisor with complete information regarding such change or disposal. Any property owner who fails to notify the tax supervisor of a change in use or disposal of a tract of land receiving the benefit of this classification shall be subject to a penalty of ten percent (10%) of the total amount of the deferred taxes and interest thereon for each listing period for which the failure to report continues.

“§ 105-277.6. *Appraisal; computation of deferred tax.*—(a) In determining the amount of the deferred taxes herein provided, the tax supervisor shall use the appraised valuation established in the county's last general revaluation except for any changes made under the provisions of G.S. 105-287. Such appraised valuations shall be adjusted, however, to eliminate any economic obsolescence allowed in the appraisal of improvements on the property on account of the use to which the property was put at the time it was last appraised.

(b) In revaluation years, as provided in G.S. 105-286, all property entitled to classification under G.S. 105-277.2 shall be reappraised at its true value in money and at its present use value as of the effective date of the revaluation. The two valuations shall continue in effect and shall provide the basis for deferred taxes until a change in one or both of the appraisals is required by law.

(c) To insure uniform appraisal of the classes of property herein defined in each county, the tax supervisor shall prepare a schedule of land values, standards and rules which, when properly applied, will result in the appraisal of the

property at its present use value. The schedule of values, standards and rules shall be subject to all of the conditions set forth in G.S. 105-317(c), (c)(1) and (c)(2) relating to the adoption of schedules, standards and rules in revaluation years.

“§ 105-277.7. *Property Tax Commission Supervision.*—To insure reasonable uniformity among the counties of the State in making appraisals as prescribed herein, the Property Tax Commission shall prepare rules, regulations and standards for use by county taxing officials in administering the provisions of this section.”

Sec. 2. This act shall become effective January 1, 1974.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. B. 326

CHAPTER 710

AN ACT TO AMEND G.S. 116-143.1(b) AS IT APPLIES TO ELIGIBILITY FOR RESIDENT TUITION FEES AT STATE-SUPPORTED INSTITUTIONS OF HIGHER EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. Amend G.S. 116-143.1 by deleting subsection (b) thereof in its entirety and by inserting a new subsection in lieu thereof to read as follows:

“(b) To qualify for in-state tuition a legal resident must have maintained his domicile in North Carolina for at least the 12 months immediately prior to his classification as a resident for tuition purposes. In order to be eligible for such classification, the individual must establish that his or her presence in the State during such twelve-month period was for purposes of maintaining a bona fide domicile rather than for purposes of mere temporary residence incident to enrollment in an institution of higher education; further, (1) if the parents (or court-appointed legal guardian) of the individual seeking resident classification are (is) bona fide domiciliaries of this State, this fact shall be prima facie evidence of domiciliary status of the individual applicant and (2) if such parents or guardian are not bona fide domiciliaries of this State, this fact shall be prima facie evidence of non-domiciliary status of the individual.”

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. B. 615

CHAPTER 711

AN ACT TO MAKE CHANGES IN THE ABORTION LAW IN ORDER TO COMPLY WITH RECENT UNITED STATES SUPREME COURT DECISIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-45.1 is rewritten to read as follows:

“§ 14-45.1. *When abortion not unlawful.*—(a) Notwithstanding any of the provisions of G.S. 14-44 and G.S. 14-45, it shall not be unlawful, during the first 20 weeks of a woman's pregnancy, to advise, procure, or cause a miscarriage or abortion when the procedure is performed by a physician licensed to practice medicine in North Carolina in a hospital or clinic certified by the North

Carolina Medical Care Commission to be a suitable facility for the performance of abortions.

(b) Notwithstanding any of the provisions of G.S. 14-44 and G.S. 14-45, it shall not be unlawful, after the twentieth week of a woman's pregnancy, to advise, procure or cause a miscarriage or abortion when the procedure is performed by a physician licensed to practice medicine in North Carolina in a hospital licensed by the North Carolina Medical Care Commission, if there is substantial risk that continuance of the pregnancy would threaten the life or gravely impair the health of the woman.

(c) The State Board of Health shall prescribe and collect on an annual basis, from hospitals or clinics where abortions are performed, such representative samplings of statistical summary reports concerning the medical and demographic characteristics of the abortions provided for in this section as it shall deem to be in the public interest. Hospitals or clinics where abortions are performed shall be responsible for providing these statistical summary reports to the State Board of Health. The reports shall be for statistical purposes only and the confidentiality of the patient relationship shall be protected.

(d) The requirements of G.S. 130-43 are not applicable to abortions performed pursuant to this section.

(e) Nothing in this section shall require a physician licensed to practice medicine in North Carolina or any nurse who shall state an objection to abortion on moral, ethical, or religious grounds, to perform or participate in medical procedures which result in an abortion. The refusal of such physician to perform or participate in these medical procedures shall not be a basis for damages for such refusal, or for any disciplinary or any other recriminatory action against such physician.

(f) Nothing in this section shall require a hospital or other health care institution to perform an abortion or to provide abortion services."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. B. 979

CHAPTER 712

AN ACT TO AMEND THE NORTH CAROLINA WATER AND AIR RESOURCES ACT OF 1967 WITH RESPECT TO FISH AND WILDLIFE KILLS BY POLLUTANTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-215.3(a)(7), as the same appears in the 1971 Cumulative Supplement to Volume 3C of the General Statutes, is hereby amended by adding at the end of the first paragraph thereof the following:

"On such hearing, the estimate of the replacement costs of the fish or wildlife destroyed shall be prima facie evidence of the actual replacement costs of such fish or wildlife. In arriving at such estimate, any reasonably accurate method may be used and it shall not be necessary for any agent of the Wildlife Resources Commission or the Department of Conservation and Development to collect, handle or weigh numerous specimens of dead fish or wildlife."

Sec. 2. G.S. 143-215.6(a), as the same appears in the 1971 Cumulative Supplement to Volume 3C of the General Statutes, is hereby amended by inserting a new subparagraph to read as follows:

"(3) To willfully and unlawfully cause pollution of the waters or air as defined in this Article, in such quantity, concentration or manner that fish or wildlife are killed as a result thereof in such numbers as to justify investigation pursuant to Section 143-215.3(a)(7)."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. B. 1075

CHAPTER 713

AN ACT AUTHORIZING THE DEPARTMENT OF AGRICULTURE TO REGULATE THE PRODUCTION, SALE, USE AND DISTRIBUTION OF BIOLOGICAL ORGANISMS.

The General Assembly of North Carolina enacts:

Section 1. Purpose. The purpose of this act is to regulate the production, sale, use and distribution of biological organisms that may have an adverse effect on the environment.

Sec. 2. Short title. This act shall be known as the "North Carolina Biological Organism Act".

Sec. 3. Definitions. For the purposes of this act, unless the context clearly requires otherwise:

(1) The term "Biological Organism" means any plant, lower animal, virus or disease causal agent intended for release into the environment; or, an organism which affects the environment by its presence or absence.

(2) The term "Division of Entomology" means the Division of the Department of Agriculture so named.

(3) The term "Commissioner" means the Commissioner of Agriculture of North Carolina or his designated agent or agents.

(4) The term "Board" means North Carolina Board of Agriculture.

Sec. 4. Authority of the Board to adopt regulations. The Board of Agriculture is hereby authorized to adopt regulations to implement and carry out the purposes of this act so as to protect the environment from detrimental importation, rearing, sale, and/or release of insects, parasites, predators and other biological organisms in North Carolina, and to protect organisms that are beneficial to man and/or his environment. No viable biological organism shall be brought into North Carolina, reared, collected, propagated or offered for sale or released except under such conditions as are prescribed by regulations adopted under the provisions of this act.

Sec. 5. Commissioner of Agriculture to enforce act. It shall be the duty of the Commissioner to exercise the powers and duties imposed upon him by this act and such regulations as shall be adopted under these provisions for the purpose of protecting the environment from adverse effects of biological organisms released into the environment of North Carolina and to protect beneficial biological organisms in the State. The Board is hereby authorized to cause importation, collection, release, destruction and propagation of beneficial organisms when such action is deemed to be in the best interest of North Carolina and its environment. The Board is authorized to promote and/or regulate businesses, persons or agencies engaged in the importation, collection, rearing, sales, release, or use of biological organisms. The Board is authorized to establish standards of positive identification, purity of culture or colony,

freedom from disease and hyperparasites of biological organisms and to establish standards of competence and responsibility for the private practitioner engaged in the propagation, use, distribution, release or sale of biological organisms.

The Commissioner is hereby authorized to cause or cooperate in management or mitigation programs to be conducted against such plant, environmental, or nuisance pests as can be controlled in an economically, ecologically, and biologically sound manner. The Board is authorized to cause use of pesticides, parasites, predators, pheromones, genetic material, and other control techniques which are consistent with the pesticide, environmental and other laws applicable in the State of North Carolina.

The Commissioner shall have authority to designate such employees of the North Carolina Department of Agriculture and/or to enter into cooperative agreements with other governmental agencies as may be needed to carry out the duties and exercise the powers provided by this act. Persons collaborating with the Division of Entomology may also be designated by the Commissioner as agents for the purpose of this act.

Sec. 6. Severability. (a) If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this act which can be enforced independently without any invalid provision or application and to this end the provisions of this act are declared to be severable.

(b) The provisions of this act shall in no way abrogate the authority as defined in other Articles of the General Statutes of the State of North Carolina as previously enacted. The Commissioner is hereby authorized to enter into memoranda of understanding with other State and federal agencies and individuals concerning biological organisms or pest mitigation programs when such action is desirable to ensure cooperation and prevent conflicts of interest.

Sec. 7. Criminal penalties; violation of law or regulations. If anyone shall interfere with or attempt to interfere with the Commissioner or any of his agents, while engaged in the performance of his duties under this act, or shall violate any provision of this act or any regulation of the Board of Agriculture adopted pursuant to this act, he shall be guilty of a misdemeanor and shall be fined not less than fifty dollars (\$50.00) nor more than two hundred fifty dollars (\$250.00), or imprisoned for not less than 10 nor more than 30 days, for each offense. Each day's violation shall constitute a separate offense.

Sec. 8. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. B. 1230

CHAPTER 714

AN ACT TO PROVIDE FOR DISREGARDING SOME OF THE CONTRIBUTIONS OF ABSENT PARENTS UNDER THE AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM.

The General Assembly of North Carolina enacts:

Section 1. The caption of G.S. 108-38, as it appears in the 1971 Cumulative Supplement to Volume 3A of the General Statutes, is hereby rewritten to change it from "Eligibility Requirements" to "Eligibility Requirements; certain contributions to be disregarded."

Sec. 2. G.S. 108-38 is further amended by inserting "(a)" immediately before the word "Assistance" in the first line thereof.

Sec. 3. G.S. 108-38 is hereby further amended by adding at the end thereof a new subsection as follows:

"(b) Subject to the limitation hereafter set out in this subsection, in computing available income and resources under this Part with regard to determining eligibility for a grant of assistance for any one child, or for any two or more children living together in a family group, there shall be disregarded, for any calendar month, the first thirty dollars (\$30.00) and one third of the excess over thirty dollars (\$30.00) provided by any parent whose absence is one of the reasons for eligibility for his or her children. This subsection shall apply only to the extent that such payments are provided for under a court order or judgment, or contract, providing for such payments, a copy of which is on file with the county department of social services."

Sec. 4. This act shall be effective July 1, 1973.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. B. 1231

CHAPTER 715

AN ACT TO PROVIDE FOR THE LISTING OF ALL STATE JOB OPENINGS WITH THE EMPLOYMENT SECURITY COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. It is the duty of every State agency to list every job opening occurring within the agency, along with a brief description of the duties and salary range, with the Employment Security Commission of North Carolina within ten working days after the occurrence of the opening, and to report to the Commission the filling of any such listed opening within five working days after the opening has been filled.

Sec. 2. This act shall be effective July 1, 1973.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. B. 1245

CHAPTER 716

AN ACT RELATING TO FINANCIAL ASSISTANCE FOR PERSONS RECEIVING SUCH ASSISTANCE PURSUANT TO CHAPTERS 108 AND 111 OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. Financial assistance and in-kind goods or services received from a governmental agency, or from a civic or charitable organization, shall not be considered in determining the amount of assistance to be paid any person under Chapters 108 and 111 of the General Statutes provided that such financial assistance and in-kind goods and services are incorporated in the rehabilitation plan of such person being assisted by the Division of Vocational Rehabilitation of the Department of Human Resources or the Vocational Rehabilitation Program of the Commission for the Blind.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. B. 1273

CHAPTER 717

AN ACT TO ESTABLISH A UNIFORM GENERAL ASSISTANCE PROGRAM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 108-62, as the same appears in the 1971 Cumulative Supplement to Volume 3A of the General Statutes, is amended and rewritten to read:

“§ 108-62. *Purpose and eligibility.*—Assistance may be granted under this Part to persons who would have been eligible under the aid to the aged and disabled category prior to January 1, 1974, but who after such date do not qualify under the Federal Supplemental Security Income Program, including needy spouses, essential persons, certain disabled persons, and those persons needing supplemental payments in boarding homes, rest homes, and convalescent homes for the aged or infirm and those needing attendant care at home. Nothing in this Part should be interpreted so as to preclude any individual county from operating any program of financial assistance using only county funds.”

Sec. 2. G.S. 108-4(4), as the same appears in the 1971 Cumulative Supplement to Volume 3A of the General Statutes, is amended by striking out the word “and” where it appears after the words “federal legislation” and before the words “by Article 2” and substituting the word “or” therefor.

Sec. 3. G.S. 108-52(a), as the same appears in the 1971 Cumulative Supplement to Volume 3A of the General Statutes, is amended by striking out the words “federal and State appropriations” where they appear in the first sentence of this subsection and substituting the words “federal appropriations or State appropriations, or the combination of both, as applicable,” therefor.

Sec. 4. G.S. 108-63, as the same appears in the 1971 Cumulative Supplement to Volume 3A of the General Statutes, is amended by repealing subsection “(c)”.

Sec. 5. G.S. 108-64(c), as the same appears in the 1971 Cumulative Supplement to Volume 3A of the General Statutes, is amended by striking out the first sentence thereof, which reads as follows: “The allotments provided by this section shall be used by the counties entitled to them solely as supplementary funds to increase the general assistance being granted.”

Sec. 6. G.S. 108-65, as the same appears in the 1971 Cumulative Supplement to Volume 3A of the General Statutes, is amended by deleting the last sentence thereof.

Sec. 7. This act shall become effective on July 1, 1973.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. B. 1296

CHAPTER 718

AN ACT TO PRESCRIBE STANDARDS FOR CURB RAMPS OR CURB CUTS FOR HANDICAPPED PERSONS.

Whereas, more than 500,000 North Carolinians are dependent on crutches, braces, or canes; confined to wheelchairs; crippled by arthritis; suffering from heart or lung diseases; enfeebled by old age; limited in mobility by blindness; and otherwise limited in mobility by physical disability; and

Whereas, thousands of North Carolinians become "temporarily disabled" every year due to broken legs, sprained ankles, pregnancy (latter stages); and

Whereas, due to advances in medicine and rehabilitation, the number of disabled and aged people in the population is steadily increasing, and fewer of them need be housebound; and

Whereas, many elderly citizens who are limited by disabilities late in life want to enjoy the fullness of community life which their efforts helped to build; and

Whereas, access to and use of sidewalks, walkways, streets, and highways is necessary for the physically disabled to fulfill their rights and responsibilities as citizens, to become employed and become taxpayers, and to exercise their constitutional right to "life, liberty, and property"; and

Whereas, the Final Report of the Governor's Study Committee on Architectural Barriers included recommendations which, if implemented, would enable the physically handicapped to more fully utilize sidewalks and walkways, and highways and streets; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Curbs constructed on each side of any street or road, where both curbs and sidewalks are provided and at other major points of pedestrian flow, shall meet the following minimum requirements:

(1) No less than two (2) curb ramps or curb cuts shall be provided per lineal block, located at intersections.

(2) In no case, shall the width of a curb ramp or curb cut be less than 40 inches.

(3) The maximum gradient of such curb ramps or curb cuts shall be 8.33% (12 inches slope for every 1 inch rise) in relationship to the grade of the street or road.

(4) One (1) curb ramp or curb cut may be provided under special conditions between each radius point of a street turn-out of an intersection, if adequate provisions are made to prevent vehicular traffic from encroaching on the ramp.

Sec. 2. Minimum requirements for curb ramps or curb cuts under Section 1 shall be met (1) in the initial construction of such curbs, and (2) whenever such curbs are reconstructed, including, but not limited to, reconstruction for maintenance procedures and traffic operations, repair, or correction of utilities.

Sec. 3. The Department of Transportation, Division of Highways, Highway Design Section, is authorized and directed to develop guidelines to implement this act in consultation with the Governor's Study Committee on Architectural Barriers (or the Committee on Barrier-Free Design of the Governor's Committee on Employment of the Handicapped if the Governor's Study Committee on Architectural Barriers ceases to exist). All curb ramps or

curb cuts constructed or reconstructed in North Carolina shall conform to the guidelines of the Highway Design Section.

Sec. 4. The Department of Transportation, Division of Highways, Highway Design Section, is authorized and directed to provide free copies of this act together with implementary guidelines and standards, to municipal and county governments and public utilities operating within the State.

Sec. 5. This act shall become effective September 1, 1973.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

S. B. 303

CHAPTER 719

AN ACT ENABLING THE COUNTIES OF CARTERET, CRAVEN, JONES AND PAMLICO TO JOINTLY ESTABLISH AN AIRPORT AUTHORITY FOR THE ESTABLISHMENT AND MAINTENANCE OF AIRPORT FACILITIES.

The General Assembly of North Carolina enacts:

Section 1. There is hereby created the "Carteret, Craven, Jones, Pamlico Airport Authority" (for brevity hereinafter referred to as the "Authority"), which shall be a body corporate and politic, having the powers and jurisdiction hereinafter enumerated and such other and additional powers as shall be conferred upon it by future acts of the General Assembly.

Sec. 2. The Authority shall consist of eight members, two of whom shall be residents of Carteret County, two of whom shall be residents of Craven County, two of whom shall be residents of Jones County and two of whom shall be residents of Pamlico County.

Each county shall be entitled to have two representatives on said Authority and the representatives shall be appointed biennially by a majority of the board of county commissioners of said county at the first regular meeting of such commissioners in July.

Within 30 days after the ratification of this act, each board of county commissioners shall appoint its representatives on said Authority to hold office until successors shall be appointed in the manner hereinbefore set forth, provided, however, that the representatives first so appointed shall hold office from appointment until the second July thereafter, at which time successors shall be appointed in the manner hereinabove provided.

Upon the occurrence of any vacancy on said Authority, said vacancy shall be filled within 60 days after notice thereof by the board of county commissioners which has a vacancy within its representation.

Each of the members of the Authority and each successor shall take and subscribe to an oath of office before the Clerk of Superior Court of the county in which they reside and file certified copies of same with the boards of county commissioners of the counties of Carteret, Craven, Jones and Pamlico.

Sec. 3. The fiscal year of the Authority shall begin on July 1 and end on June 30. On or before the first day of May of each calendar year, the Authority shall prepare and adopt a budget for its proposed expenditures for the next ensuing fiscal year and file copies of such budget with the boards of commissioners of the counties of Carteret, Craven, Jones and Pamlico.

The Authority and the boards of commissioners of the counties of Carteret, Craven, Jones and Pamlico, or representatives of such boards as may be

designated by the individual boards of commissioners, shall meet at the Craven County Courthouse at 3:00 P.M. on the last Thursday in May of each year to discuss the aforesaid budget of the Authority. Not later than 10 days after such meeting, the boards of commissioners of the counties of Carteret, Craven, Jones and Pamlico each shall file with the Authority and with each of the other boards of county commissioners written notice of the intention of such county to contribute an equal share or not to contribute to the budget of the Authority for the next ensuing fiscal year.

The payment by each county contributing an equal amount to the Authority budget shall be due from such county to the Authority not later than the first day of September of the fiscal year involved or such other later date or dates as may be agreed upon by the Authority and all contributing counties.

Sec. 4. All funds of the Authority shall be kept separately and shall be disbursed by the county auditor of the County of Carteret or Craven as may be determined by the Authority upon vouchers issued by the Authority. All vouchers issued for the payment of money by the Authority shall be signed by the county auditor disbursing such funds together with the chairman of the Authority and shall be paid when there are sufficient funds on hand for such payment, provided, however, that no disbursement shall be made which is not authorized and provided for in the budget of the Authority.

Sec. 5. Only a county or counties contributing and having contributed an equal amount to the establishment and operation of airport facilities shall be entitled to have voting representatives on the Authority. Upon the failure of any county (1) to give notice of its intention to contribute equally to the Authority budget, (2) to adopt a county budget providing for equal contribution of the county to the Authority budget, or (3) to make equal contribution to the Authority budget as herein provided, the representatives appointed to the Authority by such county automatically shall be disqualified from voting on any matter requiring a vote of the Authority, such disqualification to be effective as of the date of the aforesaid failure by the county to act with regard to the Authority budget.

Sec. 6. The Authority shall appoint from its voting members a chairman, vice chairman and such other officers as it may deem necessary for the orderly conduct of its business. A majority of the voting members shall control the decisions of the Authority and each voting member of the Authority, including the chairman, shall have one vote. A majority of the duly appointed and qualified voting members of the Authority shall constitute a quorum.

The Authority shall hold meetings at least quarterly at such time and place as it from time to time may designate and at such other times on call by the chairman or by two voting members of the Authority provided at least five days' notice is given or such notice is waived in each instance by all voting members.

Sec. 7. The said Airport Authority shall constitute a body, both corporate and politic, and shall have the following powers and authority:

(a) To purchase, acquire, establish, construct, own, control, lease, equip, improve, maintain, operate and regulate airports or landing fields for the use of airplanes and other aircraft at or upon the Cherry Point Marine Corps Air Station in Craven County and for any of such purposes, to purchase, improve, own, hold, lease and/or operate real or personal property.

(b) To sue or be sued in the name of said Authority, to acquire by purchase and to hold lands for the purpose of constructing, maintaining or operating any

airport within the limits of said counties; and to make such contracts and to hold such personal property as may be necessary for the exercise of the powers of the said Authority. The said Authority may acquire by purchase, or otherwise, any existing lease, leasehold right or other interest in any existing airport located at or upon the Cherry Point Marine Corps Air Station in Craven County.

(c) To charge and collect reasonable and adequate fees and rents for the use of the airport property or for services rendered in the operation thereof.

(d) To make all reasonable rules and regulations as it deems necessary for the proper maintenance and operation of the said airport; to provide penalties for the violation of such rules and regulations; provided said rules and regulations and schedules of fees be not in conflict with the laws of the State of North Carolina, and the rules and regulations of the federal government.

(e) To issue revenue bonds pursuant to the provisions of the Local Government Revenue Bond Act contained in Article 5 of Chapter 159 of the General Statutes of North Carolina.

(f) To sell or otherwise dispose of, any property, real or personal, belonging to the Authority.

(g) To purchase such insurance as the Authority shall deem necessary.

(h) To operate, own, lease, control, regulate, or grant to others the right to operate on any airport premises, restaurants, snack bars and vending machines, food and beverage dispensing outlets, rental car services, catering services, novelty shops, insurance sales, advertising media, merchandising outlets, motels, hotels, barber shops, automobile parking and storage facilities, automobile service stations, garage service facilities, motion picture shows, personal service establishments, and all other types of facilities as may be directly or indirectly related to the maintenance and furnishing to the public of a complete air terminal installation.

(i) To possess the same exemptions in respect to payment of taxes and license fees as provided for municipal corporations by the laws of the State of North Carolina.

Sec. 8. For the purpose of aiding the Authority in the financing of improvements of the airport facilities of the Authority, the counties of Carteret, Craven, Jones and Pamlico are hereby authorized to issue bonds, under and pursuant to the Local Government Revenue Bond Act as contained in Article 5 of Chapter 159 of the North Carolina General Statutes, for airport purposes the same as if such bonds were to be issued to finance improvements at an airport owned and operated by the aforesaid counties. The proceeds of the sale of any such bonds may be expended by the Authority as may be determined by the board of commissioners of the county issuing same.

Sec. 9. Any lands acquired, owned, controlled or occupied by said Authority shall, and are hereby declared to be acquired, owned, controlled and occupied for a public purpose.

Sec. 10. Private property needed by the said Authority for any airport, landing field or facilities of same may be acquired by gift or devise, or may be acquired by private purchase or by the exercise of the power of eminent domain, pursuant to the provisions of Chapter 136 of the General Statutes of North Carolina, as amended.

Aviation easements needed by the Authority for any airport, landing field or facilities of same likewise may be acquired by gift, devise or private purchase

or by the exercise of the power of eminent domain by said Authority, pursuant to the provisions of Chapter 136 of the General Statutes of North Carolina, as amended.

Sec. 11. The Authority shall make an annual report to the boards of commissioners for the counties of Carteret, Craven, Jones and Pamlico setting forth in detail the operations and transactions conducted by it pursuant to this act. The Authority shall be regarded as a corporate instrumentality and agent for the counties of Carteret, Craven, Jones and Pamlico for the purpose of developing airport facilities in such counties but it shall have no power to pledge the credit of the counties of Carteret, Craven, Jones and Pamlico or any subdivision thereof, or to impose any obligation upon the counties of Carteret, Craven, Jones and Pamlico or any subdivision thereof, except and when such powers expressly granted by statute or the consent of the counties of Carteret, Craven, Jones and Pamlico.

Sec. 12. All rights and powers given to the counties by the statutes of North Carolina, which may now be in effect or be enacted in the future relating to the development, regulation and control of airports and the regulations of aircraft are hereby vested in said Authority, and the counties of Carteret, Craven, Jones and Pamlico may delegate their powers under the said acts to the Authority and the Authority shall have concurrent right with the counties of Carteret, Craven, Jones and Pamlico to control, regulate, and provide for the development of aviation in the counties of Carteret, Craven, Jones and Pamlico as hereinbefore provided and limited.

Sec. 13. The Authority is hereby authorized to employ such agents, engineers, attorneys and other persons whose services may be deemed by the Authority to be necessary or useful in carrying out the provisions of this act. Members of the Authority shall not be personally liable, in any manner, for their acts as members of the Authority, except for misfeasance or malfeasance.

Sec. 14. The governing bodies of the counties of Carteret, Craven, Jones and Pamlico are hereby authorized to appropriate and use funds derived from any source other than ad valorem taxes, sums sufficient to carry out the provisions of this act as to the establishing and maintenance of any airport facilities in such proportion and upon such basis as may be determined by the Authority.

Sec. 15. The Authority shall have the right and is empowered to expend such funds as are appropriated from time to time by the counties of Carteret, Craven, Jones and Pamlico and is empowered to enter into contracts and pledge the credit of the Authority to the extent of the moneys appropriated for its use.

Sec. 16. If any part or parts of this act shall be held to be unconstitutional, such unconstitutionality shall not affect the validity of the remaining parts of this act, and all laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 17. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. B. 878

CHAPTER 720

AN ACT TO PROVIDE FOR THE COLLECTION AND DISPOSAL OF DERELICT AND ABANDONED MOTOR VEHICLES WITHIN THE STATE: TO PROHIBIT THE ABANDONMENT OF SUCH VEHICLES IN THE STATE, WITH EXCEPTIONS.

The General Assembly of North Carolina enacts:

Section 1. Article 3 of Chapter 20 is hereby amended by adding a new Part thereto to be designated "Part 4A" and to read as follows:

"Part 4A.

"Abandoned and Derelict Motor Vehicles.

"§ 20-78.1. *Declaration of purpose.*—Abandoned and derelict motor vehicles constitute a hazard to the health and welfare of the people of the State in that such vehicles can harbor noxious diseases, furnish shelter and breeding places for vermin, and present physical dangers to the safety and well-being of children and other citizens. It is therefore in the public interest that the present accumulation of abandoned and derelict motor vehicles be eliminated and that the future abandonment of such vehicles be prevented.

"§ 20-78.2. *Definitions of words and phrases.*—The following words and phrases when used in this Part shall for the purpose of this Part have the meaning respectively prescribed to them in this Part, except in those instances where the context clearly indicates a different meaning:

(1) 'Abandoned vehicle' means a motor vehicle that has remained illegally on private or public property for a period of more than 10 days without the consent of the owner or person in control of the property.

(2) 'Demolisher' means any person, firm or corporation whose business is to convert a motor vehicle into processed scrap or scrap metal or otherwise to wreck, or dismantle, such a vehicle.

(3) 'Department' means the North Carolina Department of Transportation.

(4) 'Derelict vehicle' means a motor vehicle:

- a. whose certificate of registration has expired and the registered and legal owner no longer resides at the address listed on the last certificate of registration on record with the North Carolina Department of Transportation; or
- b. whose major parts have been removed so as to render the vehicle inoperable and incapable of passing inspection as required under existing standards; or
- c. manufacturer's serial plates, vehicle identification numbers, license number plates and any other means of identification have been removed so as to nullify efforts to locate or identify the registered and legal owner; or
- d. whose registered and legal owner of record disclaims ownership or releases his rights thereto; or
- e. which is more than twelve years old and does not bear a current license as required by the Department.

(5) 'Officer' means any law enforcement officer of the State, of any county or of any municipality including county sanitation officers.

(6) 'Salvage Yard' means a business or a person who possesses five or more derelict vehicles, regularly engages in buying and selling used vehicle parts.

(7) 'Secretary' means the Secretary of the North Carolina Department of Transportation.

(8) 'Tag' means any type of notice affixed to an abandoned or derelict motor vehicle advising the owner or the person in possession that the same has been declared an abandoned or derelict vehicle and will be treated as such, which tag shall be of sufficient size as to be easily discernable and contain such information as the Secretary deems necessary to enforce this act.

(9) 'Vehicle' means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway by mechanical means.

(10) 'Vehicle recycling' means the process whereby discarded vehicles (abandoned, derelict or wrecked) are collected and then processed by shredding, bailing or shearing to produce processed scrap iron and steel which is then remelted by steel mills and foundries to make raw materials which are subsequently used to manufacture new metal-based products for the consumer.

"§ 20-78.3. *Secretary may adopt rules and regulations.*—The Secretary is hereby vested with the power and is charged with the duties of administering the provisions of this Part and is authorized to adopt such rules and regulations as may be necessary to carry out the provisions thereof.

"§ 20-78.4. *Removal from private property.*—Any abandoned or any derelict vehicle in this State shall be subject to be removed from public or private property provided not objected to by the owner of the private property after notice as hereinafter provided and disposed of in accordance with the provisions of this Part, provided, that all abandoned motor vehicles left on any right-of-way of any road or highway in this State may be removed in accordance with G.S. 20-161.

"§ 20-78.5. *Abandoned and derelict vehicles to be tagged; determination of value.*—(a) When any vehicle is derelict or abandoned in this State, the Secretary shall cause a tag to be placed on the vehicle which shall be notice to the owner, the person in possession of the vehicle, or any lien holder that the same is considered to have been derelict or abandoned and is subject to forfeiture to the State.

(b) If the vehicle is determined to be valued at less than one hundred dollars (\$100.00), the tag shall so state and shall serve as the only legal notice that unless the vehicle is removed within five days from the date reflected on the tag, that it will thereafter become property of the State, removed and be sold for recycling purposes and that all proceeds derived from the sale thereof shall be deposited into a highway fund established for the purpose of administering the provisions of this Part.

(c) If the value of the vehicle is determined to be more than one hundred dollars (\$100.00) the tag shall so state and shall serve as the only legal notice that if the vehicle is not removed within five days from the date reflected on the tag, that it will be removed to a designated place to be sold. After the vehicle is removed, the Secretary shall give notice in writing to the person in whose name the vehicle was last registered at the last address reflected in the Department's records and to any lien holder of record that the vehicle is being held, designating the place where the vehicle is being held and that if it is not redeemed within 10 days from the date of the notice by paying all costs of removal and storage the same shall be sold for recycling purposes. The proceeds of the sale shall be deposited in the highway fund established for the purpose of administering the provisions of this Part.

(d) If the value of the vehicle is determined to be more than one hundred dollars (\$100.00), and if the identity of the last registered owner cannot be determined or if the registration contains no address for the owner, or if it is impossible to determine with reasonable certainty the identification and addresses of any lien holders, notice by one publication in a newspaper of general circulation in the area where the vehicle was located shall be sufficient to meet all requirements of notice pursuant to this Part. The notice of publication may contain multiple listings of vehicles. Five days after date of publication the advertised vehicles may be sold. The proceeds of such sale shall be deposited in the highway fund established for the purpose of administering the provisions of this Part.

(e) All officers, as defined in this Part, are given the authority to appraise or determine the value of derelict or abandoned vehicles as defined in this Part.

“§ 20-78.6. *Title to vest in State.*—Title to all vehicles sold or disposed of in accordance with this Part shall vest in the State. All manufacturers' serial number plates and any other identification numbers for all vehicles sold to any person other than a demolisher shall at the time of the sale be turned in to the Department for destruction. Any demolisher purchasing or acquiring any vehicle hereunder shall, under oath, state to the Department that the vehicles purchased or acquired by it have been shredded or recycled.

The Secretary shall remove and destroy all departmental records relating to such vehicles in such method and manner as he may prescribe.

“§ 20-78.7. *Secretary may contract for disposal.*—The Secretary is hereby authorized to contract with any federal, other state, county or municipal authority or private enterprise for tagging, collection, storage, transportation or any other services necessary to prepare derelict or abandoned vehicles for recycling or other methods of disposal. Publicly owned properties, when available, shall be provided as temporary collecting areas for the vehicles defined herein. The Secretary shall have full authority to sell such derelict or abandoned vehicles. If the Secretary deems it more advisable and practical, in addition, he is authorized to contract with private enterprise for the purchase of such vehicles for recycling.

“§ 20-78.8. *No liability for removal.*—No agent or employee of any federal, State, county or municipal government, no person or occupant of the premises from which any derelict or abandoned vehicle shall be removed, nor any person or firm contracting for the removal of or disposition of any such vehicle shall be held criminally or civilly liable in any way arising out of or caused by carrying out or enforcing any provisions of this Part.

“§ 20-78.9. *Enclosed, antique, registered and certain other vehicles exempt.*—The provisions of this Part shall not apply to vehicles located on used car lots, in private garages, enclosed parking lots, or on any other parking area on private property which is not visible from any public street or highway, nor to motor vehicles classified as antiques and registered under the laws of the State of North Carolina, those not required by law to be registered, or those in possession of a salvage yard as defined in Section 2 of this act, unless that vehicle presents some safety or health hazard or constitutes a nuisance.”

Sec. 2. This act shall not repeal or modify G.S. 20-162.3 and shall become effective on September 3, 1973.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. B. 933

CHAPTER 721

AN ACT TO CLARIFY THE PROVISIONS OF G.S. 108-45 PERTAINING
TO THE CONFIDENTIALITY OF WELFARE RECORDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 108-45(b) as it appears in the 1971 Cumulative Supplement to Volume 3A of the General Statutes is hereby rewritten and amended to read as follows:

“(b) The Department of Human Resources shall furnish a copy of the recipient check register monthly to each county auditor showing a complete list of all public assistance recipients, their addresses, and the amounts of the monthly grants. This register shall be a public record open to public inspection during the regular office hours of the county auditor, but said register or the information contained therein may not be used for any commercial or political purpose. Any violation of this section shall constitute a misdemeanor.”

Sec. 2. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. B. 946

CHAPTER 722

AN ACT TO PROVIDE FOR THE MODIFICATION OR ALTERATION OF
AN ORDER OF DISPOSITION IN JUVENILE CASES BY THE
DISTRICT COURT AFTER AFFIRMATION BY THE COURT OF
APPEALS OR SUPREME COURT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-289 as the same appears in the 1969 Replacement Volume 1B of the General Statutes is hereby amended by adding the following sentence at the end thereof which shall read as follows:

“Upon the affirmation of the order of adjudication or disposition of the district court in a juvenile case by the Court of Appeals, or by the Supreme Court in the event of such an appeal, the district court shall have authority to modify or alter its original order of adjudication or disposition as the court finds to be in the best interest of the child to reflect any adjustment made by the child or change in circumstances during the period of time the case on appeal was pending, provided that if such modifying order be entered ex parte, the Court shall give notice to interested parties to show cause, if any there be, within 10 days thereafter, as to why said modifying order should be vacated or altered.”

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. B. 952

CHAPTER 723

AN ACT TO REWRITE ARTICLE 4 OF CHAPTER 122 OF THE
GENERAL STATUTES RELATING TO VOLUNTARY ADMISSION OF
PATIENTS INTO TREATMENT FACILITIES.

The General Assembly of North Carolina enacts:

Section 1. Article 4 of Chapter 122 as the same appears in the 1964 Replacement Volume 3B of the General Statutes is hereby amended by deleting G.S. 122-56 and inserting in lieu thereof G.S. 122-56, G.S. 122-57, and G.S. 122-58 to read as follows:

“Article 4.

“Voluntary Admission.

“§ 122-56. *Declaration of policy.*—It is the policy of the State to insure that the admission of any person with mental illness to a treatment facility shall be implemented under conditions that protect the dignity and rights of the person; to establish procedures which promptly respond to the needs of the person; to encourage the utilization of voluntary admissions to programs and treatment facilities; and to assure that any person admitted to inpatient treatment facilities is discharged as soon as a less restrictive mode of treatment is appropriate.

“§ 122-57. *Definitions.*—(a) The word ‘person’, as used in this Article, shall mean the person seeking voluntary admission to a treatment facility.

(b) The words ‘qualified physician’, as used in this Article, shall have the same meaning as defined in G.S. 122-36(f).

(c) The words ‘treatment facility’, as used in this Article, shall mean any hospital or institution operated by the State of North Carolina and designated for the admission of any person in need of care and treatment due to mental illness or mental retardation, any center or facility operated by the State of North Carolina for the care, treatment or rehabilitation of inebriates, and any community mental health clinic or center administered by the State of North Carolina, and, provided that approval of admission is obtained from the Director of the Inpatient Service, the Psychiatric Training and Research Center at the South Wing of the North Carolina Memorial Hospital at Chapel Hill for admission or commitment to that facility.

(d) The words ‘mental illness’, as used in this Article, shall mean ‘mental illness’ as defined in G.S. 122-36(d) and ‘inebriety’ as defined in G.S. 122-36(c).

“§ 122-58. *Voluntary admissions.*—(a) Any person who believes himself to be in need of treatment for mental illness may seek voluntary admission to a treatment facility by presenting himself for evaluation to a treatment facility. No formal or written application for evaluation or admission is required. Any person voluntarily seeking admission to a treatment facility must be personally examined and evaluated by a qualified physician of a treatment facility within 24 hours of the time of presenting himself for admission. Such evaluation shall determine whether the person is in need of treatment for mental illness or further psychiatric evaluation by the treatment facility. If the evaluating physician or physicians shall determine that the person is not in need of treatment or further psychiatric evaluation by the treatment facility, the person shall not be accepted as a patient. A written statement from a qualified physician recommending the person for treatment or further psychiatric evaluation shall not be required prior to admission except that a physician’s

statement accompanying the person shall be considered a valuable adjunct to the admission procedure.

Any patient voluntarily admitted must be discharged at anytime at his written request submitted to a member of the staff of the treatment facility. The written request may be a statement in the patient's handwriting requesting discharge or it may be a form supplied by the treatment facility which is signed by the patient. Within 24 hours of accepting a person for treatment according to this section, the treatment facility shall advise the person in writing of his right to be discharged upon request and shall provide him with a form which, when signed by him and submitted to a member of the staff of the treatment facility, shall entitle him to immediate discharge."

Sec. 2. G.S. 122-56 and all other laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. G.S. 122-57 is renumbered to be G.S. 122-59 and is hereby amended by deleting the words "to be an inebriate or mentally ill or threatened with mental illness" and inserting in lieu thereof the words "in need of treatment for mental illness" and by deleting the final sentence.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. B. 1018

CHAPTER 724

AN ACT TO SPECIFY THE EFFECTIVE DATE OF EXPANSION OF A THREE MEMBER COUNTY BOARD OF SOCIAL SERVICES TO A FIVE MEMBER BOARD.

The General Assembly of North Carolina enacts:

Section 1. G.S. 108-11, as it appears in the 1971 Cumulative Supplement to Volume 3A of the General Statutes, is hereby amended by adding the following sentence immediately following the sentence ending with the word "Board" and immediately before the sentence beginning with the word "Thereafter" in line 13 thereof:

"The change to a five member board shall become effective at the time when the additional members shall have been appointed by both the county board of commissioners and the Social Services Commission."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. B. 1079

CHAPTER 725

AN ACT TO REQUIRE A CERTIFIED AMBULANCE ATTENDANT PLUS THE DRIVER DURING EMERGENCY MISSIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-233(a) as the same appears in the 1971 Cumulative Supplement to Volume 3B of the General Statutes is hereby amended by adding the words "the driver plus" immediately after the words "occupied by" and immediately before the words "at least" in line 3 thereof; and by striking out the last sentence in G.S. 130-233(a) and substituting in lieu thereof the following sentence: "The Board, with the approval of the Emergency Medical

Services Advisory Council, shall adopt regulations setting forth exemptions to this requirement applicable to situations where exemptions are considered by the Board to be in the public interest.”

Sec. 2. This act shall become effective on October 1, 1973.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. B. 1081

CHAPTER 726

AN ACT TO AMEND CHAPTER 122 OF THE GENERAL STATUTES
RELATING TO COMMITMENT OF PERSONS TO TREATMENT
FACILITIES FOR THE MENTALLY ILL.

The General Assembly of North Carolina enacts:

Section 1. Article 5 of Chapter 122 of the General Statutes is hereby amended to read as follows:

“Article 5.

“Involuntary Commitment.

“§ 122-60. *Declaration of policy.*—It is the policy of the State to insure that no person shall be committed to a treatment facility unless he is determined to be dangerous to himself or others or gravely disabled. It is further the policy of the State to insure that the commitment of any person with mental illness or inebriety to a treatment facility will be implemented under conditions that protect the dignity and rights of the person; to establish procedures which promptly respond to the needs of the person; to encourage the utilization of voluntary admissions to programs and treatment facilities; and to assure that any person admitted to inpatient treatment facilities is discharged as soon as a less restrictive mode of treatment is appropriate.

“§ 122-61. *Definitions.*—(a) The words ‘law enforcement officer’, as used in this Article, shall mean sheriffs, deputy sheriffs, constables, police officers, and highway patrolmen.

(b) The words ‘gravely disabled’, as used in this Article, shall mean unable because of mental illness or inebriety to provide for basic personal needs for food, clothing, or shelter.

(c) The word ‘custody’, as used in this Article, shall mean such physical restraint as is necessary to bring a person before a magistrate for a hearing, or to a qualified physician for examination, or to a treatment facility for evaluation after the hearing, including the detaining of a person in his own home, in a private hospital or in a treatment facility, if necessary to locate a magistrate or qualified physician, for a period not to exceed 24 hours, provided that in no event may custody include detention in a nonmedical facility used for the detention of individuals charged with or convicted of penal offenses.

(d) The word ‘person’, as used in this Article, shall mean the person taken into custody or admitted to a treatment facility.

(e) The words ‘qualified physician’, as used in this Article, shall have the same meaning as defined in G.S. 122-36(f).

(f) The words ‘treatment facility’, as used in this Article, shall mean any hospital or institution operated by the State of North Carolina and designated for the admission of any person in need of care and treatment due to mental illness or mental retardation, any center or facility operated by the State of North Carolina for the care, treatment or rehabilitation of inebriates, and any

community mental health clinic or center administered by the State of North Carolina, and, provided that approval of admission or commitment is obtained from the Director of the Inpatient Service, the Psychiatric Training and Research Center at the South Wing of the North Carolina Memorial Hospital at Chapel Hill for admission or commitment to that facility.

(g) The words 'mental illness', as used in this Article, shall mean 'mental illness' as defined in G.S. 122-36(d).

(h) The word 'inebriety', as used in this Article, shall mean 'inebriety' as defined in G.S. 122-36(c).

"§ 122-62. *Involuntary commitment*.—A person may be involuntarily committed only in the following ways:

(1) *Judicial hospitalization*. Any person who, by reason of the commission of overt acts, is determined by a law enforcement officer to be violent and of imminent danger to himself or others, or to be gravely disabled, may be taken into custody by a law enforcement officer but only for the purpose of obtaining a personal medical examination and evaluation of the person by a qualified physician. The law enforcement officer may not retain the person in custody after such personal examination and evaluation without the authorization required by this section, nor may the law enforcement officer retain the person in custody for more than 24 hours prior to obtaining the personal medical examination and evaluation. Any person who, by reason of the commission of overt acts, is determined by a qualified physician to be violent and of imminent danger to himself or others, or to be gravely disabled, may be taken into custody by a law enforcement officer as authorized by this section. Authorization may be given by any qualified physician in the form of a written statement that he has made a personal examination of the person within 24 hours of the date of his statement and that it is his professional opinion, based upon such examination, that the person is violent and of imminent danger to himself or others, or is gravely disabled. The written statement of the qualified physician must specify the overt acts upon which his professional opinion is based. The qualified physician's written statement, when in the possession of the law enforcement officer for a period not to exceed 72 hours after it is made, shall constitute authority, without any court order, for such law enforcement officer to bring the person and the written authorization of the qualified physician immediately before a magistrate.

(2) *Emergency hospitalization*. If a law enforcement officer has reasonable grounds to believe, by reason of the commission of overt acts, that any person is violent and of imminent danger to himself or others and that the delay of obtaining a medical examination would likely endanger life or property, such law enforcement officer may take the person into custody and bring the person immediately before a magistrate.

"§ 122-63. *Duties of magistrate*.—Judicial hospitalization.

(1) When the person is brought before the magistrate pursuant to G.S. 122-62(1), it shall be the duty of the magistrate to determine if there are reasonable grounds to believe, by reason of the commission of overt acts, that the person is violent and of imminent danger to himself or others, or is gravely disabled. In making such determination, the magistrate must first take and consider oral testimony and may also consider any written authorization of a qualified physician.

After hearing the evidence, the magistrate shall issue a written order either releasing the person from custody or directing the law enforcement officer to transport the person to a treatment facility where the person shall remain pending the hearing unless released according to G.S. 122-64.

If the magistrate orders the law enforcement officer to transport the person to a treatment facility, the written order shall contain findings of fact which specify the overt acts that give reasonable grounds to believe that the person is violent and of imminent danger to himself or others, or is gravely disabled.

(2) Emergency hospitalization. When the person is brought before the magistrate pursuant to G.S. 122-62(2), the magistrate shall order the release of the person from custody if he determines that there are not reasonable grounds to believe, by reason of the commission of overt acts, that the person is violent and of imminent danger to himself or others or is gravely disabled, or if he determines that there are not reasonable grounds to believe that the delay of obtaining a medical examination prior to taking the person into custody would likely endanger life or property.

In making his determination, the magistrate must take and consider oral testimony.

If the magistrate does not order the release of the person from custody, he shall issue an order directing a law enforcement officer to transport the person to a treatment facility for the purpose of obtaining a medical examination as provided in G.S. 122-64.

Upon receiving the written statement of the qualified physician who has examined the patient pursuant to G.S. 122-64, the magistrate shall determine if there are reasonable grounds to believe, by reason of the commission of overt acts, that the person is violent and of imminent danger to himself or others, or is gravely disabled. In making such determination, the magistrate shall consider oral testimony which he has previously heard and may also consider the written statement of the qualified physician and additional oral testimony.

If the magistrate determines that there are not reasonable grounds to believe, by reason of the commission of overt acts, that the person is violent and of imminent danger to himself or others, or is gravely disabled, then he shall order the release of the person from custody.

If the magistrate determines that there are reasonable grounds to believe, by reason of the commission of overt acts, that the person is violent and of imminent danger to himself or others, or is gravely disabled, then the magistrate shall order that the person be retained in custody pending the district court hearing provided for in G.S. 122-65; provided that if the written statement of the qualified physician who has examined the person pursuant to G.S. 122-64 concludes that the person is not violent and of imminent danger to himself or others and is not gravely disabled, then the magistrate shall order the person released from custody pending the district court hearing provided for in G.S. 122-65.

If the magistrate orders that the person be retained in custody or released pending the district court hearing, the written order shall contain findings of fact which specify the overt acts that give reasonable grounds to believe that the person is violent and of imminent danger to himself or others, or is gravely disabled.

If no written statement containing the determination of a qualified physician pursuant to G.S. 122-64 is furnished to the magistrate within 48 hours of the

arrival of the person at the treatment facility, the magistrate shall order the immediate release of the person from custody.

“§ 122-64. *Examination by qualified physician at treatment facility.*—(1) Within 24 hours of arrival of a person at a treatment facility pursuant to G.S. 122-63, he shall receive a personal medical examination and evaluation by a qualified physician, who shall determine on the basis of the examination whether the person is violent and of imminent danger to himself or others, or is gravely disabled. The determination shall be in the form of a written statement. If the qualified physician determines that the person is violent and of imminent danger to himself or others, he shall record reasons for his determination in his written statement.

(2) (a) If a person is brought to the treatment facility for judicial hospitalization pursuant to G.S. 122-63(1),

(i) he may be released from the treatment facility pending the time of the district court hearing provided for in G.S. 122-65 if the qualified physician who examines him determines that he is not violent and of imminent danger to himself or others and is not gravely disabled;

(ii) he shall remain at the treatment facility pending the district court hearing provided for in G.S. 122-65 if the qualified physician who examined him determines that he is violent and of imminent danger to himself or others or is gravely disabled.

(b) If a person is brought to the treatment facility for emergency hospitalization pursuant to G.S. 122-63(2), the written statement of the qualified physician shall be furnished to the magistrate within 24 hours of the medical examination.

“§ 122-65. *District Court hearing.*—(1) Within five days, or for good cause shown for delay, within 10 days of the date that the person is taken into custody, a District Court Judge shall hear the case to determine, by reason of the commission of overt acts, whether the person is violent and of imminent danger to himself or others, or is gravely disabled. If the District Court Judge makes such determination, he shall order the person to be committed to a treatment facility, or, in the alternative, he may order outpatient treatment of the person at a treatment facility or at a private facility which provides mental health care and treatment; provided, that treatment provided by a private facility shall be paid for by the person.

Calendaring of the hearing shall be in accordance with G.S. 7A-146. The Clerk of Court shall give notice to the person taken into custody and his attorney of the date of the hearing, no later than 48 hours preceding the date of hearing, unless such notice is waived by the attorney of the person.

(2) If the hearing has not been held and a written order of involuntary commitment signed by the District Court Judge within 10 days of the date the person is taken into custody, the person shall be immediately released from custody and from the treatment facility.

(3) The court shall inquire whether the person is indigent as defined in 7A-450 of the General Statutes. If the court finds the person to be indigent, counsel shall be appointed by the court pursuant to Chapter 7A. The judge at the time of or prior to the hearing shall inquire whether the person is represented by counsel and, if not, shall appoint counsel. Such fees and other necessary expenses of representation shall be borne by the State, provided that such fees and other necessary expenses of representation paid by the State shall be reimbursed to the

State by the person represented unless the person is determined to be indigent under Chapter 7A.

(4) The person shall be present at the hearing, and such right shall be waived only at the written recommendation of the attorney of the person, with the concurrence of the court.

(5) The person has a right to be represented by counsel at the hearing, but this right may be waived with the consent of the Court.

(6) A transcript of the hearing shall be made, and the cost of the transcript added to the court costs. If the person is eligible for court appointed counsel under Chapter 7A, he shall be provided with a transcript, and such cost shall be borne by the State.

(7) The order of the District Court Judge may be appealed to the Superior Court for a hearing *de novo*. The person at such hearing shall retain the right to a jury determination of the issues in accordance with the North Carolina Rules of Civil Procedure.

“§ 122-66. *Length of involuntary commitment, rehearing.*—(1) Length of involuntary commitment. If the District Court Judge determines at the hearing provided for in G.S. 122-65, by reason of the commission of overt acts, that the person is violent and of imminent danger to himself or to others, or is gravely disabled, the District Court Judge shall issue an order that such person be admitted for care and treatment at the appropriate treatment facility for a period not to exceed 90 days.

(2) Rehearing. If the superintendent or director of the treatment facility determines that the person will be in need of care and treatment beyond the initial period of commitment, he shall make written request for rehearing to the Chief District Judge at least 30 days prior to the end of the commitment period. At the time he makes this request, the superintendent or director shall give a copy of such request to the person, or to his guardian if the person has been adjudicated incompetent under Chapter 35 and has not been restored to legal capacity, and to the person's attorney. At least 15 days before the rehearing, the Clerk of Court shall notify the person, or his guardian if the person has been adjudicated incompetent according to Chapter 35 and has not been restored to legal capacity, and his attorney of the date set for rehearing. The rehearing shall be conducted according to the procedure set forth in G.S. 122-65(3), (4), (5), (6), and (7). At the rehearing, the person shall be accorded all rights to which he was entitled at the initial commitment hearing before the District Court Judge. Each subsequent commitment ordered after rehearing by the District Court Judge shall not exceed 120 days and shall not be extended except by the procedures set forth in this section.

“§ 122-67. *Discharge.*—The superintendent or the director of the treatment facility may discharge an involuntarily committed person at any time before the expiration of the commitment period.

When an involuntarily committed person is discharged from the treatment facility, transportation must be provided for him to the county of his residence by the sheriff of such county. The cost of such return shall be borne by the county of residence.

An involuntarily committed person who is discharged may, however, elect to use alternate means of transportation, including bus or private automobile. Should such an election be made by the person, he may be discharged provided that he bears the cost of such transportation.

Within 10 days following the discharge of an involuntarily committed person, the superintendent or director of the treatment facility shall prepare and send to the District Court Judge upon whose order commitment was authorized a certificate of discharge which shall be filed in the court record. In such certificate, the superintendent or director may find that the patient is no longer in need of care and treatment in a treatment facility, in which case such certificate shall operate to remove all disabilities arising from the commitment."

Sec. 2. G.S. 122-45, G.S. 122-58, G.S. 122-59, G.S. 122-60, G.S. 122-61, G.S. 122-62, G.S. 122-63, G.S. 122-63.1, G.S. 122-64, G.S. 122-65, G.S. 122-65.3, G.S. 122-65.4, G.S. 122-66.1, G.S. 122-67, G.S. 122-67.1, G.S. 122-68, G.S. 122-68.1, G.S. 122-82.1, G.S. 122-44 and all other laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. G.S. 122-65.8 is hereby amended by deleting subsection (1) and renumbering subsection (2) as (1), renumbering subsection (3) as (2), renumbering subsection (4) as (3), renumbering subsection (5) as (4) and by deleting the final sentence in subsection (5).

Sec. 4. G.S. 7A-451(a)(6) is hereby amended by deleting the semicolon and by inserting in lieu thereof the following: "and a proceeding for involuntary commitment to a treatment facility under Article 5 of Chapter 122 of the General Statutes."

Sec. 5. G.S. 7A-246 is hereby amended by inserting after the words "special proceedings" the words "except proceedings for involuntary commitment to treatment facilities (Chapter 122, Article 5, of the General Statutes)".

Sec. 6. This act shall become effective September 1, 1973.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. B. 1091

CHAPTER 727

AN ACT TO RECALL FUNDS PREVIOUSLY APPROPRIATED TO THE NORTH CAROLINA HOUSING CORPORATION AND TO ESTABLISH A SPECIAL COMMITTEE TO STUDY THE ROLE OF THIS STATE IN HOUSING FOR PERSONS AND FAMILIES OF LOWER INCOME AND TO REPORT ITS FINDINGS TO THE GENERAL ASSEMBLY.

Whereas, the North Carolina Housing Corporation was established by Chapter 1235, Session Laws of 1969, and was at that time granted an appropriation in the amount of five hundred thousand dollars (\$500,000), for the purpose of aiding families of lower income in obtaining residential housing; and

Whereas, during the four years of its operation the effect of the North Carolina Housing Corporation on housing problems within this State has been negligible; and

Whereas, there is a severe housing shortage in this State acutely felt by nearly one and a half million North Carolinians; and

Whereas, some twenty other states have housing finance agencies similar to the North Carolina Housing Corporation which have enjoyed moderate success and in particular the Michigan State Housing Authority is not only self-supporting but is returning excess income over expenses to the state; and

Whereas, none of the housing finance agencies of other states have been abolished; and

Whereas, the reasons for the failure of the North Carolina Housing Corporation to make a significant impact on this State's housing problem despite the personal efforts of those involved with the North Carolina Housing Corporation are extremely complex and varied; and

Whereas, the entire role of the State in the field of housing, as to how the State of North Carolina may most properly and efficiently aid those in need of adequate housing, is unclear due to several uncertainties, including uncertainties as to the effect of actions taken and to be taken by the United States Government; and

Whereas, the General Assembly of North Carolina intends to fulfill its obligations to the people of this State in the field of housing, but does not intend to allow the further expenditure of tax monies in an ineffective manner; Now therefore,

The General Assembly of North Carolina enacts:

Section 1. Thirty days following ratification of this act, no further expenditures will be made from any funds appropriated to the North Carolina Housing Corporation for salaries of any employees or officers of the Corporation, and at that time all employees and officers of the North Carolina Housing Corporation shall be released.

Thirty days following ratification of this act, the State Treasurer of North Carolina will act as trustee for the North Carolina Housing Corporation. As trustee for the corporation, it shall be the duty of the State Treasurer of North Carolina to pay all legally enforceable obligations of the corporation and to collect any obligation owed it. The State Treasurer of North Carolina shall succeed to all powers of the corporation as may be necessary to carry out his duties as trustee and shall be entitled to perform all acts in the name of the corporation as may be necessary to carry out his duties as trustee or to fulfill the obligations of the corporation.

Thirty days following the ratification of this act, all monies held by the North Carolina Housing Corporation shall be delivered to the State Treasurer as trustee. Any other assets of the corporation shall be delivered to the State Treasurer who shall dispose of them as personal property of the State of North Carolina and shall hold the proceeds thereof in like trust. As trustee for said funds, the State Treasurer shall await direction of the General Assembly of North Carolina for disposition of the funds.

Sec. 2. Because of current uncertainty as to the status of federal funding, a state of crisis exists in the funding of many limited-income housing projects. To ameliorate the impact of this situation, the Treasurer of the State is hereby authorized to issue in the name of the North Carolina Housing Corporation up to \$25,000,000 of bonds or bond anticipation notes and to spend the proceeds of such bonds or notes or of contributions, grants, or other funds held in the name of the Corporation, as if he were the Corporation, pursuant to the provisions of Chapter 1235 of the Session Laws of 1969. Provided, however, that such action shall be taken only upon application of a public or non-profit private agency concerned with the provision of limited-income housing, and that no such action shall be taken without the concurrence of the Council of State and the Attorney General.

Sec. 3. The North Carolina Housing Corporation is granted express authority to complete projects presently under way and directed to undertake no new projects or to make any new expenditures except as may be incidental to or required by projects presently under way and as may be necessary to the winding up of its affairs and except as provided in Section 2 above.

Sec. 4. After ratification of this act, the State Treasurer may, if he deems it necessary and advisable, order an audit of the financial records of the North Carolina Housing Corporation and report the results of said audit to the General Assembly.

Sec. 5. A committee is hereby established to study the advisability of maintaining the North Carolina Housing Corporation and to generally study the proper and effective role of the State in housing. The committee is to be composed of two members of the Senate appointed by the President of the Senate, two members of the House of Representatives appointed by the Speaker of the House, the State Treasurer, the Attorney General, the Secretary of Human Resources, and six other members to be chosen by the committee; one representative of the mortgage bankers of North Carolina, one representative of the North Carolina Association of Realtors, one representative of the North Carolina Home Builders Association, the administrator of a public or non-profit agency established to provide housing for limited-income persons, one representative of the North Carolina Manufactured Housing Institute, and a housing specialist with professional experience in analyzing housing needs and public policy relating thereto. The committee is to report its findings and recommendations to the next session of the General Assembly.

Sec. 6. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. B. 1270

CHAPTER 728

AN ACT TO CHANGE THE MANNER OF SELECTION OF THE STATE BOARD OF EXAMINERS FOR NURSING HOME ADMINISTRATORS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-277 as the same appears in the 1971 Cumulative Supplement to Volume 2C of the General Statutes is hereby amended and rewritten to read:

“§ 90-277. *Composition of board.*—There is hereby created the State Board of Examiners for Nursing Home Administrators which shall consist of eight members. The Secretary of Human Resources or his designee shall be an ex officio member who shall serve as secretary for the board and have no vote. The remaining seven members shall be voting members who meet the following criteria:

(1) They shall be individuals representative of the professions and institutions concerned with the care and treatment of chronically ill or infirm elderly patients.

(2) Less than a majority of the board members shall be representative of a single profession or institutional category.

(3) The noninstitutional members shall have no direct financial interest in nursing homes, with nursing home administrators being considered as

representatives of institutions for the purpose of interpreting the applicability of this subsection.

(4) Three of the Board members shall be licensed nursing home administrators.

Effective July 1, 1973, the Governor shall appoint three members, one of whom shall be a licensed nursing home administrator, for terms of three years, and four members, two of whom shall be licensed nursing home administrators, for terms of two years. Thereafter, all terms shall be three years. However, no member shall serve more than two consecutive full terms. Any vacancy occurring in the position of an appointive member shall be filled by the Governor for the unexpired term in the same manner as for new appointments. Appointive members may be removed by the Governor for cause after due notice and hearing."

Sec. 2. This act shall become effective on July 1, 1973.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

S. B. 194

CHAPTER 729

AN ACT TO REWRITE THE LAWS RELATING TO THE APPORTIONMENT OF PRINCIPAL AND INCOME.

The General Assembly of North Carolina enacts:

Section 1. Chapter 37 of the General Statutes is hereby amended by rewriting the title thereof to read "Allocation of Principal and Income" and by designating the existing provisions of Chapter 37 as Article 1 entitled "Uniform Principal and Income Act."

Sec. 2. Chapter 37 is further amended by adding a new Article 2 to read as follows:

"Article 2.

"Principal and Income Act of 1973.

"§ 37-16. *Definitions.*—(a) As used in this article:

- (1) 'Income beneficiary' means the person to whom income is presently payable or for whom it is accumulated for distribution as income.
- (2) 'Inventory value' means the cost of property purchased by the trustee and the market value of other property at the time it became subject to the trust, but in the case of a testamentary trust the trustee may use any value finally determined for the purposes of an estate or inheritance tax.
- (3) 'Personal representative' shall include executor, any successor executor, administrator of intestate estates, administrator CTA, successor administrator, collector, or any fiduciary appointed to administer or conserve an estate.
- (4) 'Remainderman' means the person entitled to principal, including income which has been accumulated and added to principal.
- (5) 'Trustee' means an original trustee and any successor or added trustee and, where applicable, the personal representative of a decedent's estate.
- (6) 'Trust' includes, where applicable, a decedent's estate whether testate or intestate.
- (7) 'Tax' includes any interest or penalty thereon except where such interest or penalty is separately provided for in this article.

“§ 37-17. *Duty of trustee or personal representative as to receipts and expenditures.*—(a) A trust or a decedent's estate shall be administered with due regard to the respective interests of income beneficiaries and remaindermen. A trust or a decedent's estate is so administered with respect to the allocation of receipts and expenditures if a receipt is credited or an expenditure is charged to income or principal or partly to each:

- (1) In accordance with the terms of the trust instrument or will, notwithstanding contrary provisions of this article; or
- (2) In the absence of any contrary terms of the trust instrument or will, in accordance with the provisions of this article; or
- (3) If neither of the preceding rules of administration is applicable, in accordance with what is reasonable and equitable in view of the interests of those entitled to income as well as of those entitled to principal, and in view of the manner in which men of ordinary prudence, discretion and judgment would act in the management of their own affairs.

(b) If the trust instrument or will gives the trustee or personal representative discretion in crediting a receipt or charging an expenditure to income or principal or partly to each, no inference of imprudence, partiality or abuse of discretion arises from the fact that the trustee or personal representative has made an allocation contrary to a provision of this article.

“§ 37-18. *Income; principal; charges.*—(a) Income is the return in money or property derived from the use of principal, including return received as:

- (1) Rent of real or personal property, including sums received for cancellation or renewal of a lease;
- (2) Interest on money lent, including sums received as consideration for the privilege of prepayment of principal, except as provided in G.S. 37-22 with respect to bond premium;
- (3) Income earned during administration of a decedent's estate as provided in G.S. 37-20;
- (4) Corporate distributions as provided in G.S. 37-21;
- (5) Accrued increment on bonds or other obligations issued at discount, as provided in G.S. 37-22;
- (6) Receipts from business and farming operations, as provided in G.S. 37-26;
- (7) Receipts from disposition of natural resources, as provided in sections G.S. 37-24 and G.S. 37-25, and receipts from other principal subject to depletion, as provided in G.S. 37-26; or
- (8) Receipts from disposition of underproductive property as provided in G.S. 37-27.

(b) Principal is the property which has been set aside by the owner or the person legally empowered so that it is held to be delivered eventually to a remainderman while the return or use of the principal is in the meantime taken or received by or held for accumulation for an income beneficiary. Principal includes:

- (1) Consideration received by the trustee or personal representative on the sale or other transfer of principal or on repayment of a loan or as a refund or replacement or change in the form of principal;
- (2) Proceeds of property taken in eminent domain proceedings;
- (3) Proceeds of insurance upon property forming part of the principal

except proceeds of insurance upon a separate interest of an income beneficiary;

- (4) Certain stock dividends, receipts on liquidation of a corporation, and other corporate distributions, as provided in G.S. 37-21;
- (5) Amortization of premium and certain receipts from the disposition of securities, as provided in G.S. 37-22;
- (6) Royalties and other receipts from disposition of natural resources, as provided in G.S. 37-24 and G.S. 37-25, and receipts from other principal subject to depletion as provided in G.S. 37-26;
- (7) Any profit resulting from any change in the form of principal except as provided in G.S. 37-27 on underproductive property;
- (8) Receipts from disposition of underproductive property as provided in G.S. 37-27; and
- (9) Any allowances for depreciation established under G.S. 37-23 and G.S. 37-26.

(c) After determining income and principal in accordance with this article, the trustee or personal representative shall charge expenses and other charges to income or principal as provided in G.S. 37-20 and G.S. 37-28 through G.S. 37-38.

“§ 37-19. *When right to income arises; apportionment of income.*—(a) An income beneficiary is entitled to income for the period beginning on the date specified in the trust instrument or will, or, if no date is specified, on the date an asset becomes subject to the trust or on the date of the decedent's death and ending on the date the income interest of the beneficiary terminates. In the case of an asset becoming subject to a trust by reason of a will, it becomes subject to the trust as of the date of the death of the testator even though there is an intervening period of administration of the testator's estate.

(b) In the administration of a decedent's estate or when an asset becomes subject to a trust by reason of a will:

- (1) Receipts due but not paid at the date of death are principal; and
- (2) Receipts in the form of periodic payments (other than corporate distributions to stockholders and receipts incident to the operation of a trade or business), including rent, interest or annuities, not due at the date of death shall be treated as accruing day to day. That portion of any receipt accruing before the date of death is principal, and the balance is income.

(c) On termination of an income interest, the income beneficiary whose interest is terminated, or his estate, is entitled to:

- (1) Income undistributed on the date of termination;
- (2) Income due but not paid to the trustee or personal representative on the date of termination; and
- (3) Income in the form of periodic payments (other than corporate distributions to stockholders and receipts incident to the operation of a trade or business), including rent, interest, or annuities, not due on the date of termination, accrued, on a day-to-day basis, on or before the date of termination.

(d) In the administration of a decedent's estate or when an asset becomes subject to a trust, income defined in G.S. 37-23 for the period ending on the date of death or when the asset becomes subject to a trust is principal.

(e) Corporate distributions to stockholders shall be treated as due on the day fixed by the corporation for determination of stockholders of record entitled to distribution or, if no date is fixed, on the date of declaration of the distribution by the corporation.

(f) In all other cases any receipt from an income-producing asset is income as of the date of receipt even though it was earned or accrued in whole or in part before or after such date.

“§ 37-20. *Income earned and expenses incurred during administration of a decedent's estate.*—(a) Unless the will otherwise provides or the court otherwise directs:

- (1) All expenses incurred in connection with the administration and settlement of a decedent's estate (other than expenses of management and operation of the estate property), including debts, funeral and burial expenses, death taxes, penalties concerning death taxes, family allowances shall be charged against the principal of the estate; and
- (2) Compensation of attorneys and personal representatives and court costs, to the extent they are incurred in the administration and settlement of a decedent's estate, shall be charged against the principal of the estate. All expenses incurred in the management and operation of the estate property shall be charged against principal or income of the estate in accordance with the rules applicable to a trustee under this article.

(b) Unless the will otherwise provides, or the court otherwise directs, income from the assets of a decedent's estate after the death of the decedent and before distribution, including income from property used to discharge liabilities, shall be determined in accordance with the rules applicable to a trustee under this chapter and distributed as follows:

- (1) To specific legatees and devisees, the income from the property bequeathed or devised to them respectively, less taxes, ordinary repairs and other expenses of management and operation of the property, and appropriate portions of interest expense accrued since the death of the decedent and taxes imposed on income (excluding taxes chargeable against principal) which accrue during the period of administration;
- (2) To all other legatees and devisees (except legatees of pecuniary bequests not in trust) and to all takers by intestacy, the balance of the income, less the balance of taxes, ordinary repairs and other expenses of management and operation of all property from which the estate is entitled to income, interest expense accrued since the death of the decedent and taxes imposed on income (excluding taxes chargeable against principal) which accrue during the period of administration, in proportion to their respective interests in the undistributed assets of the estate computed at times of distribution on the basis of inventory value.

(c) Income received under subsection (b) by a trustee shall be treated as income of the trust.

“§ 37-21. *Corporate distributions.*—(a) Except as otherwise provided in this section, corporate distributions of shares of the distributing corporation, including distributions in the form of a stock split or stock dividend, are principal. A right to subscribe to shares or other securities issued by the distributing corporation accruing to stockholders on account of their stock ownership and the proceeds of any sale of the right are principal.

(b) Except to the extent that the corporation indicates that some part of a corporate distribution is a settlement of preferred or guaranteed dividends accrued since the trustee or personal representative became a stockholder or is in lieu of an ordinary cash dividend, a corporate distribution is principal if the distribution is pursuant to:

- (1) A call of shares;
- (2) A merger, consolidation, reorganization, or other plan by which assets of the corporation are acquired by another corporation; or
- (3) A total or partial liquidation of the corporation, including any distribution which the corporation indicates is a distribution in total or partial liquidation or any distribution of assets, other than cash, pursuant to a court decree or final administrative order by a government agency ordering distribution of the particular assets.

(c) Except as otherwise provided in this section, distributions made from ordinary income or from realized capital gains by a regulated investment company or by a trust qualifying and electing to be taxed under federal law as a real estate investment trust are income. All other distributions made by the company or trust, whether in the form of cash or an option to take new stock or cash or an option to purchase additional shares, are principal.

(d) Except as provided in subsections (a), (b), and (c), all corporate distributions are income, including cash dividends, distributions of or rights to subscribe to shares or securities or obligations of corporations other than the distributing corporation, and the proceeds of the rights or property distributions. In addition, in the following instances, a distribution is income notwithstanding that it is in shares of the distributing corporation:

- (1) If the distribution is, at the election of any of the shareholders (whether exercised before or after the declaration thereof), payable either in the stock of the distributing corporation or in property;
- (2) If the distribution (or a series of distributions of which such distribution is one) has the result of the receipt of property by some shareholders and an increase in the proportionate interests of other shareholders in the assets or earnings and profits of the distributing corporation;
- (3) If the distribution (or a series of distributions of which such distribution is one) has the result of the receipt of preferred stock by some common shareholders and the receipt of common stock by other common shareholders; or
- (4) If the distribution is with respect to preferred stock, other than an increase in the conversion ratio of convertible preferred stock made solely to take account of a stock dividend or stock split with respect to the stock into which such convertible stock is convertible.

(e) The trustee or personal representative may rely upon any statement of the distributing corporation as to any fact relevant under any provision of this section concerning the source or character of dividends or distributions of corporate assets.

“§ 37-22. *Bond premium and discount.*—(a) Bonds or other obligations for the payment of money are principal at their inventory value, except as provided in subsection (b) for discount bonds. No provision shall be made for amortization of bond premiums or for accumulation for discount. The proceeds of sale, redemption, or other disposition of the bonds or obligations are principal.

(b) The increment in value of a bond or other obligation for the payment of money payable at a future time in accordance with a fixed schedule of appreciation in excess of the price at which it was issued is distributable as income. The increment in value is distributable to the beneficiary who was the income beneficiary at the time of increment from the first principal cash available or, if none is available, when realized by sale, redemption, or other disposition. Whenever unrealized increment is distributed as income but out of principal, the principal shall be reimbursed for the increment when realized.

“§ 37-23. *Business and farming operations.*—(a) If a trustee or personal representative uses any part of the principal in the continuance of a business of which the settlor or decedent was a sole proprietor or a partner, the net profits of the business, computed in accordance with generally accepted accounting principles for a comparable business, are income. If a loss results in any fiscal or calendar year, the loss falls on principal and shall not be carried into any other fiscal or calendar year for purposes of calculating net income.

(b) Generally accepted accounting principles shall be used to determine income from an agricultural or farming operation, including the raising of animals or the operation of a nursery.

“§ 37-24. *Disposition of natural resources.*—(a) If any part of the principal consists of a right to receive royalties, overriding or limiting royalties, working interests, production payments, net profit interests, or other interests in minerals or other natural resources in, on or under land, the receipts from taking the natural resources from the land shall be allocated as follows:

- (1) If received as rent on a lease or extension payments on a lease, the receipts are income.
- (2) If received from a production payment, the receipts are income to the extent of any factor for interest or its equivalent provided in the governing instrument. There shall be allocated to principal the fraction of the balance of the receipts which the unrecovered cost of the production payment bears to the balance owed on the production payment, exclusive of any factor for interest or its equivalent. The receipts not allocated to principal are income.
- (3) If received as a royalty, overriding or limited royalty, or bonus, or from a working, net profit, or any other interest in minerals or other natural resources, receipts not provided for in the preceding paragraphs of this section shall be apportioned on a yearly basis in accordance with this paragraph whether or not any natural resource was being taken from the land at the time the trust or decedent's estate came into existence. Fifty percent (50%) of the gross receipts attributable to the permanent severance of the natural resources (but not to exceed sixty-six and two-thirds percent (66 2/3%) of the net receipts attributable to the permanent severance of the natural resources remaining after payment of all expenses, direct and indirect, computed without allowance for depletion) shall be added to principal as an allowance for depletion. The balance of the gross receipts, after provision therefrom for all expenses, direct and indirect, is income.

(b) If a trustee or personal representative, on the effective date of this article, held an item of depletable property of a type specified in this section, he shall allocate receipts from the property in the manner used before the effective date of this article, but as to all depletable property acquired after the effective date

of this article by an existing or new trust or decedent's estate, the method of allocation provided herein shall be used.

(c) This section does not apply to timber, water, soil, sod, dirt, turf, or mosses.

"§ 37-25. *Timber*.—If any part of the principal consists of land from which merchantable timber may be removed, the receipts from taking the timber from the land shall be allocated in accordance with G.S. 37-17(a)(3).

"§ 37-26. *Other property subject to depletion*.—Except as provided in G.S. 37-24 and G.S. 37-25, if the principal consists of tangible or intangible property subject to depletion, including leaseholds, patents, copyrights, royalty rights, and rights to receive payments on a contract for deferred compensation, or other intangible assets of a wasting nature, receipts from the property, not in excess of five percent (5%) per year of its inventory value or of its fair market value at the end of the particular fiscal or calendar year, whichever is greater, are income and the balance is principal.

"§ 37-27. *Underproductive property*.—(a) Except as otherwise provided in this section, a portion of the net proceeds of sale of any part of principal which part has not produced an average net income of at least one percent (1%) per year of its inventory value for more than a year (including as income the value of any beneficial use of the property by the income beneficiary) shall be treated as delayed income to which the income beneficiary is entitled as provided in this section. The net proceeds of sale are the gross proceeds received, including the value of any property received in substitution for the property disposed of, less the expenses, including capital gains tax, if any, incurred in disposition and less any carrying charges paid while the property was underproductive.

(b) The sum allocated as delayed income is the difference between the net proceeds and the amount which, had it been invested at simple interest at four percent (4%) per year while the property was underproductive, would have produced the net proceeds. This sum, plus any carrying charges and expenses previously charged against income while the property was underproductive, less any income received by the income beneficiary from the property and less the value of any beneficial use of the property by the income beneficiary, is income, and the balance is principal.

(c) Anything herein to the contrary notwithstanding:

(1) No amount shall be allocated as delayed income under this section on account of the sale of any underproductive part of principal from a trust, when the whole of such principal has produced an average net income of four percent (4%) per annum of its inventory value for each year that the trust principal included such underproductive part;

(2) The sum allocated as delayed income on account of the sale of the underproductive part of the trust principal shall not exceed that amount which is the difference between the actual average net income of the trust principal and that greater amount which would have been produced if the trust principal had yielded four percent (4%) per annum of its inventory value during the years in which the trust contained such underproductive part.

(d) An income beneficiary or his estate is entitled to delayed income under this section as if it accrued from day to day during the time he was a beneficiary.

(e) If principal subject to this section is disposed of by conversion into property which cannot be apportioned easily, including land or mortgages (for example, realty acquired by or in lieu of foreclosure), the income beneficiary is

not, on account of such conversion, entitled to any allocation as delayed income under this section; however, the income beneficiary is entitled to the net income from any property or obligation into which the original principal is converted while the substituted property or obligation is held.

“§ 37-28. *Expenses.*—Expenses not included in G.S. 37-29 through G.S. 37-38 shall be charged against income if such expenses are ordinary expenses reasonably incurred in connection with the administration, management or preservation of the trust property; otherwise they shall be charged against principal.

“§ 37-29. *Taxes.*—(a) Regularly recurring taxes assessed against any portion of the principal and any tax levied on receipts defined as income under this article or the trust instrument shall be charged against income.

(b) Any tax levied upon profits, gains or receipts allocated to principal shall be charged against principal notwithstanding denomination of the tax as an income tax by the taxing authority.

(c) If an estate or inheritance tax is levied in respect of a trust in which both an income beneficiary and a remainderman have an interest, any amount apportioned to the trust shall be charged against principal even though the income beneficiary also has rights in the principal.

“§ 37-30. *Compensation of trustee.*—(a) Unless the Court otherwise directs, one-half of the regular compensation of the trustee, whether based on a percentage of principal or income, shall be charged against income, and one-half of such compensation shall be charged against principal.

(b) Unless the Court otherwise directs, compensation of the trustee other than regular compensation shall be charged against income if the matter primarily concerns the income interest, shall be charged against principal if the matter primarily concerns principal and shall be charged one-half against each if the primary concern cannot readily be determined; provided that compensation computed on principal as an acceptance, distribution or termination fee shall be charged against principal.

“§ 37-31. *Court costs and attorneys' fees.*—(a) Unless the Court otherwise directs, one-half of court costs and attorneys' fees on periodic judicial accountings shall be charged against income and one-half shall be charged against principal.

(b) Unless the Court otherwise directs, court costs, attorneys' fees and other expenses incurred in any judicial proceeding, other than periodic judicial accountings, shall be charged against income if the matter primarily concerns the income interest and shall be charged against principal if the matter primarily concerns principal and shall be charged one-half against each if the primary concern cannot readily be determined.

“§ 37-32. *Management of principal and application of income.*—All expenses reasonably incurred for current management of principal and application of income shall be charged against income; except that the direct costs of investing and reinvesting principal shall be charged against principal.

“§ 37-33. *Interest and payments on indebtedness.*—Interest paid by the trustee, including interest on death tax deficiencies, shall be charged against income. Payments on principal of an indebtedness (including a mortgage amortized by periodic payments of principal) shall be charged against principal.

“§ 37-34. *Premiums on insurance.*—Premiums on insurance taken upon the interests of the income beneficiary, remainderman, or trustee shall be charged against income.

“§ 37-35. *Repairs, improvements, and special assessments.*—(a) Ordinary repairs shall be charged against income.

(b) Expenses, other than ordinary repairs, in connection with the preparation of property for rental or sale, extraordinary repairs, expenditures for capital improvements to principal, and special assessments shall be charged against principal.

“§ 37-36. *Depreciation.*—A reasonable allowance for depreciation of property subject to depreciation under generally accepted accounting principles shall be charged against income, but no allowance for depreciation shall be made for that portion of any real property used by a beneficiary as a residence and no allowance for depreciation need be made for any property held by the trustee on the effective date of this article for which the trustee was not then required to make and was not then making an allowance for depreciation.

“§ 37-37. *Spreading charges against income.*—If charges against income are of unusual amount, the trustee may by means of reserves or other reasonable means charge them over a reasonable period of time and withhold from distribution sufficient sums to regularize distributions.

“§ 37-38. *Recurring charges; apportionment.*—Regularly recurring charges payable from income shall be apportioned to the same extent and in the same manner that income is apportioned under G.S. 37-19.

“§ 37-39. *Application of article.*—Except as specifically provided in the trust instrument or the will or in this article, this article shall apply to any receipt or expense received or incurred after the effective date of this article by any trust or decedent's estate whether established before or after the effective date of this article and whether the asset involved was acquired by the trustee before or after the effective date of this article.

“§ 37-40. *Short title.*—This article may be cited as the Principal and Income Act of 1973.”

Sec. 3. G.S. 37-1 through 37-15, being Article 1 of this chapter as provided in Section 1 of this act, and all laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 4. This act shall become effective on and after January 1, 1974.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

S. B. 522

CHAPTER 730

AN ACT RELATING TO THE GAMES OF “BINGO” AND “SKILO” IN WAKE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It shall be lawful to play or operate raffles and the games of “bingo” and “skilo” in Wake County in connection with fairs, conventions, bazaars, or exhibitions sponsored by church, religious, civic, charitable, social, patriotic, fraternal or trade associations of the county.

Sec. 2. It shall be lawful for any church, religious, patriotic or fraternal club or association in Wake County to play or operate the games of “bingo” and “skilo” in the church, club or organization's club house or meeting rooms.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. B. 515

CHAPTER 731

AN ACT TO PROVIDE THAT APPALACHIAN STATE UNIVERSITY SHALL RECEIVE COPIES OF THE SESSION LAWS, GENERAL STATUTES OF NORTH CAROLINA AND PUBLICATIONS OF STATE OFFICIALS AND DEPARTMENT HEADS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 147-45 is hereby amended by adding immediately after the words "Western Carolina University" and immediately before the words "Lenoir Rhyne College" the words and figures as follows:
"Appalachian State University 1 1 1"

Sec. 2. G.S. 147-50 is amended by adding immediately after the words "Western Carolina University" the words and figures as follows:

"Appalachian State University 2 copies;"

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. B. 601

CHAPTER 732

AN ACT TO AMEND THE LAWS GOVERNING PERPETUAL CARE CEMETERIES TO REQUIRE THAT INCOME FROM PERPETUAL CARE FUNDS BE USED FOR UPKEEP AND MAINTENANCE AND TO PROVIDE FOR ENFORCEMENT BY THE BURIAL COMMISSIONER.

The General Assembly of North Carolina enacts:

Section 1. G.S. 65-24 is rewritten as follows: "Such cemetery shall set aside in its perpetual care fund not less than fifteen dollars (\$15.00) per grave space and niche and forty dollars (\$40.00) per above ground mausoleum hereafter sold. The income derived from the investment of such fund shall be used to defray the expense of upkeep and maintenance of such cemetery; provided that income derived from such fund may be allowed to accumulate in trust if the Burial Commissioner specifically finds the expenditure of such income is not required for the proper upkeep and maintenance of such cemetery.

For the purpose of this section, a grave space or niche or mausoleum shall be considered to be sold at such time as the purchaser thereof has acquired unconditional right of interment therein."

Sec. 2. G.S. 65-34 is hereby rewritten to read as follows:

"§ 65-34. *Suspension or revocation of license.*—In addition to the penalties provided in G.S. 65-31, the Burial Commissioner may suspend or revoke the license of any cemetery or person required to be licensed under this Article if, after notice and hearing, the Commissioner finds that such cemetery or person has violated any provision of this Article or has been convicted pursuant to G.S. 65-31 of any violation of this Article. The Commissioner may, in his discretion, upon application by such cemetery, thereafter restore to it its license if such cemetery corrects the violation of this Article, on account of which its owner or

manager was convicted, as well as any other violations thereof known to the Commissioner. This Article shall be written into and become a part, where applicable, of all contracts and certificates issued hereunder.”

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. B. 1126**CHAPTER 733**

AN ACT TO AMEND G.S. 115-44 TO PROVIDE THAT A COPY OF THE WRITTEN CONTRACT FOR ASSISTANT AND ASSOCIATE SUPERINTENDENTS AS PROVIDED BY LAW WILL BE FILED WITH THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION AS A MATTER OF INFORMATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115-44 is amended as follows:

Amend the first sentence of the third paragraph by adding the following immediately after the words “Associate Superintendent” and preceding the period:

“, a copy of which shall be filed with the State Superintendent of Public Instruction as a matter of information”.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. B. 1157**CHAPTER 734**

AN ACT TO AMEND THE UNIT OWNERSHIP ACT RELATING TO THE REQUIREMENT THAT BYLAWS BE ANNEXED TO FIRST DEED TO EACH UNIT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 47A-18 is amended by deleting the words “and first deed to unit” in the catchline thereof, and by deleting from the second and third lines the words “and to the first deed of each unit”.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. B. 1211**CHAPTER 735**

AN ACT TO AMEND G.S. 105-285 AND G.S. 105-304 TO MAKE CLEAR WHEN AND WHERE CERTAIN TANGIBLE PERSONAL PROPERTY IS TO BE LISTED FOR TAXATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-285 is rewritten to read as follows:

“§ 105-285. *Date as of which property is to be listed and appraised.*—(a) Annual listing required. All property subject to ad valorem taxation shall be listed annually.

(b) Personal property; general rule. Except as provided in subsection (c) below, the value, ownership, and place of taxation of personal property, both tangible and intangible, shall be determined annually as of January 1.

(c) Business inventories. The value, ownership, and place of taxation of inventories held and used in connection with the mercantile manufacturing, processing, or producing business enterprise of a taxpayer having a place of business in this State, whose fiscal year closes at a date other than December 31, shall be determined annually as of the ending date of the taxpayer's latest completed fiscal year. However, if with respect to any business enterprise or any new or additional business location a taxpayer has not completed a fiscal year as of January 1, the value, ownership, and place of taxation of inventories held and used in connection with the taxpayer's new business enterprise or new or additional business location shall be determined as of January 1.

For purposes of this section, the word 'inventories' means goods held for sale in the regular course of business, raw materials, and goods in process of manufacture or processing; it also means other goods and materials that are used or consumed in manufacture or processing or that accompany and are sold with the goods manufactured or processed.

(d) Real property. The value of real property shall be determined as of January 1 of the years prescribed by G.S. 105-286 and G.S. 105-287. The ownership of real property shall be determined annually as of January 1, except in the following situation: When any real property is acquired after January 1, but prior to July 1, and the property was not subject to taxation on January 1 on account of its exempt status, it shall be listed for taxation by the transferee as of the date of acquisition and shall be appraised in accordance with its true value as of January 1 preceding the date of acquisition; and the property shall be taxed for the fiscal year of the taxing unit beginning on July 1 of the year in which it is acquired. The person in whose name such property is listed shall have the right to appeal the listing, appraisal, and assessment of the property in the same manner as that provided for listings made as of January 1.

In the event real property exempt as of January 1 is, prior to July 1, acquired from a governmental unit that by contract is making payments in lieu of taxes to the taxing unit for the fiscal period beginning July 1 of the year in which the property is acquired, the tax on such property for the fiscal period beginning on July 1 immediately following acquisition shall be one half of the amount of the tax that would have been imposed if the property had been listed for taxation as of January 1."

Sec. 2. This act shall become effective on January 1, 1974.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. B. 1327

CHAPTER 736

AN ACT TO PROVIDE FOR RECIPROCAL AGREEMENTS WITH
OTHER STATES AS ISSUANCE OF CITATIONS TO NON-
RESIDENTS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 20 of the General Statutes is hereby amended by adding a new Article to be designated "Article 1B" and to read as follows:

"ARTICLE 1B.

"Reciprocal Provisions as to Arrest of Non-Residents.

"§ 20-4.13. *Definitions.*—Unless the context otherwise requires, the following words and phrases, for the purpose of this Article, shall have the following meanings:

(a) State. The State of North Carolina.

(b) Reciprocating State. Any state or other jurisdiction which extends by its laws to residents of North Carolina substantially the rights and privileges provided by this Article.

(c) Citation. Any citation, summons, ticket, or other document issued by a law enforcement officer for the violation of a traffic law, ordinance, rule or regulation.

(d) License. Any operator's or chauffeur's license or any other license, permit, or privilege to operate a motor vehicle.

(e) Collateral or Bond. Any cash or other security deposited to secure an appearance following a citation by a law enforcement officer.

(f) Personal Recognizance. A signed agreement by a non-resident that he will comply with the terms of the citation issued to him.

(g) Non-resident. A person who is a resident of or holds a license issued by a reciprocating state.

"§ 20-4.14. *Issuance of citation to non-resident; officer to report noncompliance.*—(a) Notwithstanding other provisions of this Chapter, a law enforcement officer observing a violation of this Chapter or other traffic regulation by a non-resident shall issue a citation as appropriate and shall not, subject to the provisions of subsection (b) of this section require such non-resident to post collateral or bond to secure appearance for trial, but shall accept such non-resident's personal recognizance; provided, however, that the non-resident shall have the right upon request to post collateral or bond in a manner provided by law and in such case the provisions of this Article shall not apply.

(b) No non-resident shall be entitled to be released on his personal recognizance if the offense is one which would result in the suspension or revocation of a person's license under the laws of this State.

(c) Upon the failure of the non-resident to comply with the citation, the law enforcement officer shall obtain a warrant for his arrest and shall report the noncompliance to the Department. The report of noncompliance shall clearly identify the non-resident; describe the violation, specifying the section of the statute, code, or ordinance violated; indicate the location and date of offense; identify the vehicle involved; bear the signature of the law enforcement officer; and contain a copy of the personal recognizance signed by the non-resident.

"§ 20-4.15. *Department to transmit report to reciprocating state; suspension of license for noncompliance with citation issued by reciprocating state.*—(a) Upon receipt of a report of noncompliance, the Department shall transmit a

certified copy of such report to the official in charge of the issuance of licenses in the reciprocating state in which the non-resident resides or by which he is licensed.

(b) When the licensing authority of a reciprocating state reports that a person holding a North Carolina license has failed to comply with a citation issued in such state, the Commissioner shall forthwith suspend such person's license. The order of suspension shall indicate the reason for the order, and shall notify the person that his license shall remain suspended until he has furnished evidence satisfactory to the Commissioner that he has complied with the terms of the citation which was the basis for the suspension order by appearing before the tribunal to which he was cited and complying with any order entered by said tribunal.

(c) A copy of any suspension order issued hereunder shall be furnished to the licensing authority of the reciprocating state.

(d) The Commissioner shall maintain a current listing of reciprocating states hereunder. Such lists shall from time to time be disseminated among the appropriate departments, divisions, bureaus, and agencies of this State; the principal law enforcement officers of the several counties, cities, and towns of this State; and the licensing authorities in reciprocating states.

(e) The Commissioner shall have the authority to execute or make agreements, arrangements, or declarations to carry out the provisions of this Article."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. B. 1340

CHAPTER 737

AN ACT TO AMEND THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM CONCERNING CREDITABLE SERVICE AND BENEFITS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 135-4(a) as the same appears in the 1971 Cumulative Supplement is hereby amended by rewriting the proviso following the second semicolon and preceding the third semicolon so that the proviso reads as follows:

"; provided, that any member who retired on a service retirement allowance prior to July 1, 1965, who at the time of his retirement did not qualify for credit for his service as a teacher or State employee prior to July 1, 1941, may request on and after July 1, 1971, that his original benefit be recalculated, in accordance with the formula prevailing at the time of his retirement, to include credit for such service with the new benefit to become effective on the first of the month following certification of the prior service;".

Sec. 2. G.S. 135-5 as the same appears in the 1971 Cumulative Supplement is hereby amended by adding the following section:

"(q) Notwithstanding anything herein to the contrary, effective July 1, 1973, any member who retired after attaining the age of 60 with 15 or more years of creditable service shall receive a monthly benefit of no less than seventy-five dollars (\$75.00) prior to the application of any optional benefit."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. B. 1347**CHAPTER 738**

AN ACT TO CORRECT A TECHNICAL ERROR IN CHAPTER 528 OF THE 1973 SESSION LAWS RELATING TO PRIVATE PROTECTIVE SERVICES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 528 of the 1973 Session Laws of North Carolina is hereby amended by striking the word "Trade" in G.S. 74B-3(b)(6) and inserting in lieu thereof the word "Credit".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

S. B. 552**CHAPTER 739**

AN ACT TO AMEND ARTICLE 25A OF CHAPTER 126 OF THE GENERAL STATUTES, THE NORTH CAROLINA EGG LAW, SO AS TO REMOVE CERTAIN EXEMPTIONS CONTAINED THEREIN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 106-245.15 is rewritten to read:

"No person shall market to consumers, institutional consumers or retailers or expose for that purpose any eggs unless there is clearly designated therewith on the container the grade and size or weight class established in accordance with the provisions of this Article and such eggs shall conform to the designated grade and size or weight class (except when sold on contract to a United States Governmental agency) provided, however, a producer marketing eggs of his own production shall be exempt from this section when such marketing occurs on the premises where the eggs are produced, processed, or when ungraded sales do not exceed 30 dozen per week."

Sec. 2. G.S. 106-245.18 is amended by striking the words "to consumers" appearing in line 2 of paragraph (a) thereof.

Sec. 3. G.S. 106-245.22(b) is hereby repealed.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

S. B. 553**CHAPTER 740**

AN ACT TO AMEND CHAPTER 96, GENERAL STATUTES OF NORTH CAROLINA, AS AMENDED, KNOWN AS THE EMPLOYMENT SECURITY LAW.

The General Assembly of North Carolina enacts:

Section 1. That Article 2, Chapter 96, Section 96-9(d)(1)b., General Statutes of North Carolina, as such appears in the 1965 Replacement Volume 2C, 1971 Cumulative Supplement, be and the same is hereby amended by adding the following provision immediately following the word "subjectivity" in the eighth line of said section, reading as follows:

"Provided if notification is not by registered mail, the election may be made on or after January 1, 1972, within six (6) months following the date of the written notification of the determination of such subjectivity."

Sec. 2. That Article 2, Chapter 96, Section 96-8(6) g 8, General Statutes of North Carolina, as such appears in Volume 2C, 1971 Cumulative Supplement, be and the same is hereby amended by adding, immediately following the concluding phrase of the present section, the following provision:

"Provided no retroactive liability shall be imposed on any employer for any year in which the employer held an exemption from income tax under 501(a) of the Internal Revenue Code of 1954, whether or not the Internal Revenue Service has or shall hereafter retroactively revoke the 501(a) exemption."

Sec. 3. This act shall be in full force and effect upon its ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

S. B. 555

CHAPTER 741

AN ACT TO AMEND G.S. 33-31 TO CLARIFY ITS PROVISIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 33-31 is hereby amended and rewritten to read as follows:

"§ 33-31. *Special proceedings to sell; judge's approval required.*—On application of the guardian or ancillary guardian appointed pursuant to G.S. 33-31.2, or by guardian ad litem, next friend or commissioner of the court acting pursuant to this Article, by petition, verified upon oath, to the superior court, showing that the interest of the ward would be materially promoted by the sale or mortgage of any part of his estate, real or personal, the proceeding shall be conducted as in other cases of special proceedings; and the truth of the matter alleged in the petition being ascertained by satisfactory proof, a decree may thereupon be made that a sale or mortgage be had by such person, in such way and on such terms as may be most advantageous to the interest of the ward; all petitions filed under the authority of this section wherein an order is sought for the sale or mortgage of the ward's real estate or both real and personal property shall be filed in the superior court of the county in which all or any part of the real estate is situated; if the order of sale demanded in the petition is for the sale or mortgage of the ward's personal estate, the petition may be filed in the superior court of the county in which any or all of such personal estate is situated; no mortgage shall be made until approved by the judge of the court, nor shall the same be valid, nor any conveyance of the title made, unless confirmed and directed by the judge, and the proceeds of the sale or mortgage shall be exclusively applied and secured to such purposes and on such trusts as the judge shall specify, provided that on and after June 1, 1973, no sales of property belonging to minors or incompetents prior to that date by next friend, guardian ad litem, or commissioner of the court regular in all other respects shall be declared invalid nor shall any claim or defense be asserted on the grounds that said sale was not made by a duly appointed guardian as provided herein or on the grounds that said minor or incompetent was not represented by a duly appointed guardian. The guardian may not mortgage the property of his ward for a term of years in excess of the term fixed by the court in its decree. The word 'mortgage' whenever used herein shall be construed to include deeds

in trust. The word 'guardian' whenever used herein shall be construed to include next friend, guardian ad litem, or commissioner of the court acting pursuant to this Article. Nothing herein contained shall be construed to divest the court of the power to order private sales as heretofore ordered in proper cases. The procedure for a sale pursuant to this section shall be provided by Article 29A of Chapter 1 of the General Statutes."

Sec. 2. This act shall be in full force and effect on and after June 1, 1973.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

S. B. 596**CHAPTER 742****AN ACT TO PRESCRIBE THE COUNTY RESPONSIBLE FOR PROCESSING AAD AND AFDC APPLICATIONS.**

The General Assembly of North Carolina enacts:

Section 1. G.S. 108-40 as the same appears in the 1971 Cumulative Supplement to Volume 3A of the General Statutes is hereby amended by adding the words "in the county in which the applicant resides" immediately following the word "services" where that word appears at the end of the first sentence in line 4 of that section.

Sec. 2. This act shall become effective on October 1, 1973.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

S. B. 597**CHAPTER 743****AN ACT TO DEFINE THE TERM "DEPENDENT CHILD" FOR PURPOSES OF PROGRAMS OF PUBLIC ASSISTANCE.**

The General Assembly of North Carolina enacts:

Section 1. G.S. 108-24 as it appears in the 1971 Cumulative Supplement to Volume 3A of the General Statutes is hereby amended by adding the words "who has been eligible for AFDC who is now" immediately after the word "minor" where it appears in line 10 thereof and immediately before the word "living" where it appears in lines 10 and 11 thereof.

Sec. 2. This act shall become effective on October 1, 1973.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

S. B. 598**CHAPTER 744****AN ACT TO PROVIDE FOR EFFECT OF FINDING OF NONPARTICIPATION IN TRAINING BY AFDC RECIPIENT.**

The General Assembly of North Carolina enacts:

Section 1. G.S. 108-39.1 as the same appears in the 1971 Cumulative Supplement to Volume 3A of the General Statutes is hereby amended by striking out the words "special work projects" as they appear in the title of that section and substituting therefor the word "training", by inserting the word "or" immediately following the word "participate" and immediately preceding the word "to" in line 12 thereof, by striking out the words "a project"

immediately following the word "in" and immediately preceding the word "shall" in line 12 thereof and substituting therefor the word "training".

Sec. 2. G.S. 108-39.1(d), (e), and (f) are hereby repealed.

Sec. 3. G.S. 108-39.1(g) is renumbered as G.S. 108-39.1(d).

Sec. 4. This act shall become effective on October 1, 1973.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

S. B. 612

CHAPTER 745

AN ACT TO AMEND THE MOTOR VEHICLE SAFETY RESPONSIBILITY ACT OF 1953, CHAPTER 20, ARTICLE 9A, ARTICLE 10, AND ARTICLE 11 OF THE GENERAL STATUTES OF NORTH CAROLINA TO INCREASE THE PRESENT REQUIRED MINIMUM LIMITS OF PROOF OF FINANCIAL RESPONSIBILITY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-279.1, as the same appears in the 1971 Cumulative Supplement to Volume 1C of the North Carolina General Statutes, is hereby amended by striking out of lines 4 and 5 of subdivision (11), the words and amount "ten thousand dollars (\$10,000)" and by substituting in lieu thereof the words and amount "fifteen thousand dollars (\$15,000)", and by striking out of line seven of subdivision (11) the words and amount "twenty thousand dollars (\$20,000)" and by substituting in lieu thereof the words and amount "thirty thousand dollars (\$30,000)".

Sec. 2. G.S. 20-279.5, as the same appears in the 1971 Cumulative Supplement to Volume 1C of the North Carolina General Statutes on page 268 of the same, is hereby amended by striking out of line 19 of the first unnumbered paragraph following subparagraph (5) of subsection (c) thereof the words and amount "ten thousand dollars (\$10,000)" and by substituting in lieu thereof the words and amount "fifteen thousand dollars (\$15,000)", and by striking out of line 21 of the first unnumbered paragraph following subparagraph numbered (5) of said subsection (c) the words and amount "twenty thousand dollars (\$20,000)" and by substituting in lieu thereof the words and amount "thirty thousand dollars (\$30,000)".

Sec. 3. G.S. 20-279.15, as the same appears in the 1971 Cumulative Supplement to Volume 1C of the North Carolina General Statutes on page 270 thereof, is hereby amended by striking out the words and amount "ten thousand dollars (\$10,000)" appearing in the first line of subdivision (1) thereof and by substituting in lieu thereof the words and amount "fifteen thousand dollars (\$15,000)," and by striking out the words and amount "twenty thousand dollars (\$20,000)" appearing in the second and third lines of subdivision (2) thereof and substituting in lieu thereof the words and amount "thirty thousand dollars (\$30,000)".

Sec. 4. G.S. 20-279.21, as the same appears in the 1971 Cumulative Supplement to Volume 1C of the North Carolina General Statutes on page 271 thereof, is hereby amended by striking out of lines eight and nine of subdivision (2) of subsection (b) thereof the words and amount "ten thousand dollars (\$10,000)" and by substituting in lieu thereof the words and amount "fifteen thousand dollars (\$15,000)" and by striking out of line 11 of subdivision (2) of

subsection (b) thereof the words and amount "twenty thousand dollars (\$20,000)" and substituting in lieu thereof "thirty thousand dollars (\$30,000)".

Sec. 5. G.S. 20-279.25, as the same appears in the 1971 Cumulative Supplement to Volume 1C of the North Carolina General Statutes at page 282 thereof, is hereby amended by striking out the words and amount "twenty-five thousand dollars (\$25,000)" where such words and amounts appear in lines three, four, five and six of subsection (a) thereof and by substituting in lieu thereof on said lines the words and amount "forty-five thousand dollars (\$45,000)".

Sec. 6. G.S. 20-280, as the same appears in the 1971 Cumulative Supplement to Volume 1C of the North Carolina General Statutes on page 286 thereof, is hereby amended by striking out the words and amount "Ten thousand dollars (\$10,000)" in line 10 of subsection (b) thereof and by substituting in lieu thereof the words and amount "fifteen thousand dollars (\$15,000)", and by striking out the words and amount "twenty thousand dollars (\$20,000)" in line 12 of subsection (b) thereof and by substituting in lieu thereof the words and amount "thirty thousand dollars (\$30,000)".

Sec. 7. G.S. 20-281, as the same appears in the 1971 Cumulative Supplement to Volume 1C of the North Carolina General Statutes, is hereby amended by striking out the words and amount "ten thousand dollars (\$10,000)" in lines 14 and 15 thereof and by substituting in lieu thereof the words and amount "fifteen thousand dollars (\$15,000)" and by striking out the words and amount "twenty thousand dollars (\$20,000)" in line 16 thereof and by substituting in lieu thereof the words and amount "thirty thousand dollars (\$30,000)".

Sec. 8. This act shall become effective January 1, 1974, and where the manner of giving proof of financial responsibility is by automobile liability policy, the same shall apply only to policies written or renewed on or after the effective date of this act.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

S. B. 626

CHAPTER 746

AN ACT TO AMEND G.S. 135-33 AND G.S. 135-34 RELATING TO HEALTH BENEFITS FOR TEACHERS AND STATE EMPLOYEES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 135-33 and G.S. 135-34 as they appear in the 1971 Cumulative Supplement to Volume 3B of the General Statutes are hereby amended by deleting the words "to the board" from line 5 of G.S. 135-33 and by deleting the words "to the board" from line 5 of G.S. 135-34.

Sec. 2. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

S. B. 627

CHAPTER 747

AN ACT TO AMEND CHAPTER 1436, SESSION LAWS OF 1957 RELATING TO THE BETTER PROTECTION OF MIGRATORY WILDFOWL IN CURRITUCK SOUND AND ITS TRIBUTARIES AND TO ENABLE THE COUNTY OF CURRITUCK TO COOPERATE WITH THE NORTH CAROLINA WILDLIFE RESOURCES COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Section 4 of Chapter 1436 of the Session Laws of 1957 is hereby amended by striking the second sentence and substituting therefor the following:

“Licenses for bush blinds, float lines, and point blinds shall be solely issued by the clerk to the Currituck County Game Commission. The Currituck County Game Commission shall elect and appoint a suitable person, from persons qualifying by education and experience, to act as clerk to the Currituck County Game Commission.”

Sec. 2. Section 18 of Chapter 1436 of the Session Laws of 1957 is hereby amended by striking the fourth sentence in the second paragraph and substituting the following:

“The clerk to the Currituck County Game Commission to be selected, as heretofore set out, shall receive an annual salary of five hundred dollars (\$500.00) plus any additional fees for issuing of licenses as may be approved by the North Carolina Wildlife Resources Commission.”

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

S. B. 640

CHAPTER 748

AN ACT TO PROTECT YOUTHFUL OFFENDERS.

The General Assembly of North Carolina enacts:

Section 1. Purpose of Act. The purpose of this act is to protect the future of youthful offenders of the law. Once a criminal record is created by conviction of a person, said criminal record remains a part of his past for so long as he may live. Many youths have only one small encounter with the law. They go on to be excellent citizens, raise good families, but are always hindered by having a criminal conviction on their record. This bill is not intended to excuse those who repeat their wrongdoing, but to somehow pardon a youthful oversight in an isolated occurrence.

Sec. 2. Chapter 90 of the General Statutes is hereby amended by adding a new section immediately following G.S. 90-113.14, to be designated G.S. 90-113.15, and to read as follows:

“§ 90-113.15. *Expunction of records for first offenders under the age of 18 at the time of conviction of misdemeanor.*—(a) Whenever any person who has not yet attained the age of 18 years and has not previously been convicted of any felony, or misdemeanor other than a traffic violation, under the laws of the United States, the laws of this State or any other state, pleads guilty to, or is guilty of a misdemeanor, he may file a petition in the court where he was convicted for expunction of the misdemeanor from his criminal record. The petition cannot be filed earlier than two years after the date of the conviction or

any period of probation, whichever occurs later and the petition shall contain, but not be limited to, the following:

- (1) An affidavit by the petitioner that he has been of good behavior for the two-year period since the date of conviction of the misdemeanor in question and has not been convicted of any felony, or misdemeanor other than a traffic violation, under the laws of the United States or the laws of this State or any other state.
- (2) Verified affidavits of two persons who are not related to the petitioner or to each other by blood or marriage, that they know the character and reputation of the petitioner in the community in which he lives and that his character and reputation are good.
- (3) A statement that the petition is a motion in the cause in the case wherein the petitioner was convicted.
- (4) Affidavits of the clerk of superior court, Chief of Police, where appropriate, Sheriff of the county wherein the petitioner was convicted, and official records of the Federal Bureau of Investigation and the State Bureau of Investigation, all showing that the petitioner has not been convicted of a felony or misdemeanor under the laws of the United States or the laws of this State or any other state at any time prior to the conviction for the misdemeanor in question or during the two-year period following the conviction for the misdemeanor in question.

The petition shall be served upon the solicitor of the court wherein the case was tried resulting in conviction. The solicitor shall have 10 days thereafter in which to file any objection thereto and shall be duly notified as to the date of the hearing of the petition.

(b) If the court, after hearing, finds that the petitioner had remained of good behavior and been free of conviction of any felony or misdemeanor, other than a traffic violation, for two years from the date of conviction of the misdemeanor in question, and petitioner was not 18 years old at the time of the conviction in question, it shall order that such person be restored, in the contemplation of the law, to the status he occupied before such arrest or indictment or information. No person as to whom such order has been entered shall be held thereafter under any provision of any laws to be guilty of perjury or otherwise giving a false statement by reason of his failure to recite or acknowledge such arrest, or indictment, information, or trial, or response to any inquiry made of him for any purpose.

(c) The court shall also order that said misdemeanor conviction be expunged from the records of the court, and direct all law enforcement agencies bearing record of the same to expunge their records of the conviction and the clerk shall forward a certified copy of the order to all law enforcement agencies concerned and to the FBI and SBI with the cost thereof to be taxed against the petitioner.

(d) The clerk of superior court in each county in North Carolina shall, as soon as practicable after each term of court in his county, file with the North Carolina Department of Justice, the names of those persons granted a discharge under the provisions of this section, and the North Carolina Department of Justice shall maintain a confidential file containing the names of persons granted conditional discharges. The information contained in such file shall be disclosed only to judges of the General Court of Justice of North Carolina for the purpose of ascertaining whether any person charged with an offense has been previously granted a discharge."

Sec. 2. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

S. B. 667**CHAPTER 749****AN ACT TO ESTABLISH THE NORTH CAROLINA CRIMINAL JUSTICE EDUCATION AND TRAINING SYSTEM.**

Whereas, the General Assembly of North Carolina has previously declared, in G.S. 17A-1, that the administration of criminal justice is of statewide concern, and its proper administration is important to the health, safety and welfare of the people of the State and is of such nature as to require education and training of a professional nature; and

Whereas, it is in the public interest that such education and training be made available to persons who seek to become criminal justice officers, persons who are serving as such officers in a temporary or probationary capacity, persons already in regular service, and persons who are to train others; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby created a new Chapter of the General Statutes, immediately following Chapter 17A, to be designated Chapter 17B and to read as follows:

“CHAPTER 17B**“North Carolina Criminal Justice Education
and Training System.**

“§ 17B-1. Definitions.—As used in this Article, unless the context otherwise requires:

‘The Council’ means the North Carolina Criminal Justice Education and Training Council.

‘Center’ means the North Carolina Criminal Justice Education and Training Center.

‘Criminal Justice Agencies’ means the State and local law enforcement agencies, the State and local police traffic service agencies, the State correctional agencies, the jails and other correctional agencies maintained by local governments, and the courts of the State.

‘Department’ means the Department of Justice.

“§ 17B-2. System established.—The North Carolina Department of Justice shall establish a North Carolina Criminal Justice Education and Training System. The System shall consist of a cooperative arrangement between criminal justice agencies, both State and local, to provide education and training to the officers and employees of the Criminal Justice Agencies of the State of North Carolina and its local governments. The System shall include the educational and training programs offered by the Criminal Justice Education and Training Center as well as those conducted by any other public agencies or institutions within the State which are engaged in criminal justice education and training and desire to be affiliated with the System for the purpose of achieving greater coordination of criminal justice education and training efforts in North Carolina.

“§ 17B-3. Center established.—The North Carolina Department of Justice shall establish a North Carolina Criminal Justice Education and Training

Center. The Center shall provide a comprehensive educational and training program for agents of the State Bureau of Investigation, for other employees of the Department of Justice and for the employees of any State Criminal Justice Agency which desires to affiliate with the Center for purposes of education and training.

The Department of Justice, through the Center, also may provide educational and training programs for local criminal justice personnel upon request and is encouraged to develop programs which will enhance the skills of local criminal justice officials. In addition the Department of Justice is authorized to provide comprehensive programs designed to qualify persons as instructors of criminal justice education and training at the local level.

“§ 17B-4. *North Carolina Criminal Justice Education and Training System Council; organization.*—(a) Membership. The North Carolina Criminal Justice Education and Training System Council shall be composed of 38 members as follows:

(1) Four representatives of sheriffs' departments, one of whom shall be selected by the North State Law Enforcement Officers' Association and three selected by the North Carolina Sheriffs' Association.

(2) Four representatives of police departments, one of whom shall be selected by the North State Law Enforcement Officers' Association and three selected by the North Carolina Association of Police Executives.

(3) Two county commissioners selected by the North Carolina Association of County Commissioners.

(4) Two mayors selected by the North Carolina League of Municipalities.

(5) One criminal justice educator selected by the North Carolina Association of Criminal Justice Education.

(6) One law enforcement training officer selected by the North Carolina Law Enforcement Training Officers' Association.

(7) Five civilian members at large to be selected by the Governor from the general private sector.

(8) One superior court judge, one district court judge and one solicitor of the General Court of Justice, each of these individuals to be selected by the members of their respective groups in general meeting assembled.

(9) The Attorney General, the Director of the Administrative Office of the Courts, the Commissioner of Correction, the Director of Jail and Detention Services, the Director of Probation, the Chairman of the Board of Paroles, the Commissioner of Youth Development, the Director of the State Bureau of Investigation, the Commissioner of Motor Vehicles, the Commander of the State Highway Patrol, the Executive Director of the Wildlife Resources Commission, the Commissioner of Commercial and Sports Fisheries, the Chairman of the State Board of Alcoholic Control, the Coordinator of the Governor's Highway Safety Program, the President of Community Colleges of the Department of Education, and the Director of the Institute of Government, all of whom shall serve ex officio.

(b) Terms. Each of these members, other than those designated as ex officio, shall be appointed for one-year terms with the initial appointments being made prior to September 1, 1973, and each appointee serving upon said Council until September 1, 1974, or until such date as their respective successors are appointed and qualified.

(c) Vacancies. Vacancies on the Council occurring for any reason shall be filled, for the unexpired term, by the appropriate designated authority making the appointment of the person causing the vacancy.

(d) Votes. Each and every member of the Council, including those designated as ex officio members, shall be voting members.

(e) Chairman. The Chairman of the Council shall be elected from within the Council membership by a majority of the members voting thereon. The Council may elect such other officers from its membership as it deems necessary.

(f) Ex Officio Proxy. Any of the ex officio members may, in writing, designate another individual on his staff to represent and vote for him on the Council.

(g) Compensation. No member of the Council shall receive any compensation for serving on the Council. Members of the Council who are State officers or employees shall be reimbursed for their expenses in accordance with G.S. 138-6. All other members of the Council shall be reimbursed for their necessary expenses in accordance with G.S. 138-5(b).

“§ 17B-5. *North Carolina Criminal Justice Education and Training System Council.*—The North Carolina Criminal Justice Education and Training System Council shall have the following duties:

(1) It shall formulate basic plans for and promote the development of a comprehensive system of education and training for the officers and employees of criminal justice agencies consistent with the regulations and standards of the North Carolina Criminal Justice Training and Standards Council and shall provide advice, counsel, and leadership in bringing together the various components of the System and in implementing and operating the System.

(2) It may adopt and amend bylaws, consistent with law, for its internal management and control.

(3) It may establish an executive committee and such other committees of the Council and such advisory bodies as it deems appropriate and may determine their respective powers and duties.

(4) The Council may accept for any of its purposes and functions under this Article any and all donations, both real and personal, and grants of money from any governmental unit or public agency, or from any institution, person, firm or corporation. Any arrangements pursuant to this section shall be detailed in the annual report of the Council. Such reports shall include the identity of the donor, the nature of the transaction, and the conditions, if any. Any moneys received by the Council pursuant to this section shall be deposited in the State Treasury to the account of the System. All moneys involved shall be subject to audit by the State Auditor.

“§ 17B-6. *Department's functions.*—The Department of Justice shall have the following powers and duties with respect to the Criminal Justice Education and Training System:

(1) It may, after consultation with representatives of local criminal justice agencies, plan, organize, staff and conduct instructional and training programs to be offered through the System to local criminal justice agencies upon their request.

(2) It shall provide any personnel deemed necessary for the development, implementation and maintenance of the System as a whole, provided appropriations are made for such positions by the General Assembly or funds are otherwise available.

(3) It shall maintain liaison among local, State and federal agencies with respect to criminal justice education and training.

(4) It shall have legal custody of all books, papers, documents, other records and property relating to the System as a whole.

(5) It shall employ the staff of the Center and direct the operation of it in cooperation with other affiliated agencies.

(6) It shall make an annual report to the North Carolina Criminal Justice Education and Training System Council.

(7) It may enter into contracts and do such things as may be necessary and incidental to the administration of its authority pursuant to this Article."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

S. B. 688

CHAPTER 750

AN ACT TO AMEND G.S. 7A-11 CONCERNING THE APPOINTMENT OF
THE CLERK OF THE SUPREME COURT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-11 is amended by striking the words "for a term of eight years" in line two and substituting in lieu thereof the words "at its pleasure."

Sec. 2. This act shall become effective October 15, 1973.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

S. B. 722

CHAPTER 751

AN ACT TO PROVIDE FOR FINDINGS OF FACT CONCERNING
VISITATION RIGHTS IN CERTAIN CHILD CUSTODY CASES.

The General Assembly of North Carolina enacts:

Section 1. In any case in which an award of child custody is made in a district court, the trial judge, prior to denying a parent the right of reasonable visitation, shall make a written finding of fact that the parent being denied visitation rights is an unfit person to visit the child or that such visitation rights are not in the best interest of the child.

Sec. 2. This act shall be effective June 1, 1973.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

S. B. 732

CHAPTER 752

AN ACT TO PERMIT TAXING COUNTIES TO CHOOSE METHODS OF DISTRIBUTING LOCAL SALES AND USE TAXES ON AN ANNUAL BASIS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-472 is hereby amended by adding a new paragraph at the end thereof, to read as follows:

“The board of county commissioners in each taxing county shall, by resolution adopted during the month of April of each year, determine which of the two foregoing methods of distribution shall be in effect in the county during the next succeeding fiscal year. In order for such resolution to be effective, a certified copy thereof must be delivered to the Commissioner of Revenue at his office in Raleigh within 15 calendar days after its adoption. If the board fails to adopt any resolution or if it fails to adopt a method of distribution not then in effect in the county, or if a certified copy of the resolution is not timely delivered to the Commissioner, the method of distribution then in effect in the county shall continue in effect for the following fiscal year. The method of distribution in effect on the first of July of each fiscal year shall apply to every distribution made during that fiscal year.”

Sec. 2. This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

S. B. 736

CHAPTER 753

AN ACT TO AMEND G.S. 115-159.1 AS IT RELATES TO THE SALARY OF A TEACHER INJURED DURING AN EPISODE OF VIOLENCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115-159.1(a) is rewritten as follows:

“Any teacher as defined in G.S. 135-1(25) who, while engaged in the course of his employment or in any activities incidental thereto, suffers any injury or disability resulting from or arising out of any episode of violence by one or more persons shall be entitled to receive his full salary during the shortest of these periods: one year, or the continuation of his disability, or the time during which he is unable to engage in his employment because of injury. An episode of violence shall be defined to mean but shall not be limited to any acts of violence directed toward any school building or facility, or to any teacher or any student by any person including but not limited to another student. These benefits shall be in lieu of all other income or disability benefits payable under workmen's compensation to such teacher only during the period prescribed herein. Thereafter, such teacher shall be paid such income or disability payments to which he might be entitled under workmen's compensation. If the employment of a substitute teacher is necessitated by the disability of the injured teacher, the salary of such substitute teacher shall be paid from the same source of funds from which the teacher is paid. This section shall in no way limit the right of the injured teacher to receive the benefits of medical, hospital, drug and related expense payments from any source, including workmen's compensation. Provided further that this section shall not apply to any teacher who is injured while he himself participates in or provokes such episode of violence except as is

incident to the maintenance or restoration of order or classroom discipline or to defend himself. Provided further that this section shall be given liberal construction and interpretation as to any and all definitions, conditions, and factual circumstances set forth herein."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

S. B. 740

CHAPTER 754

AN ACT TO AMEND ARTICLE 26 OF CHAPTER 58 OF THE GENERAL STATUTES OF NORTH CAROLINA TO PROVIDE INSURANCE FOR EXCEPTIONAL CHILDREN.

The General Assembly of North Carolina enacts:

Section 1. Article 26 of Chapter 58 of the General Statutes of North Carolina is hereby amended by inserting therein a new section, G.S. 58-251.5, to read as follows:

"§ 58-251.5. *Insurers and others to afford coverage to mentally retarded and physically handicapped children.*—(a) No insurance company licensed in this State pursuant to the provisions of this Chapter and no corporation governed by the provisions of Chapter 57 of the General Statutes of North Carolina shall refuse to issue or deliver any individual or group accident and health insurance policy or hospital or medical service plan policy in this State which it is currently issuing for delivery in this State and which affords benefits or coverage for minor children of the applicant, by reason of the physical handicap or mental retardation of any minor children of the applicant; nor shall any such policy issued and delivered in this State carry a higher premium rate or charge or restrict or exclude coverage or benefits by reason of said mental retardation or physical handicap. Provided, however, such policy may exclude benefits, otherwise payable for disability, hospitalization, or medical or other therapeutic expense directly and solely attributable to such mental retardation or such physical handicap.

(b) The Commissioner of Insurance shall revoke the license of any insurer or any corporation governed by the provisions of Chapter 57 of the General Statutes of North Carolina if it fails to comply with the provisions of this section."

Sec. 2. The provisions of this act shall apply to corporations governed by the provisions of Chapter 57 of the General Statutes of North Carolina.

Sec. 3. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

S. B. 743 CHAPTER 755

AN ACT TO PROVIDE SCHOLARSHIPS FOR CHILDREN OF WAR VETERANS WHO ATTEND A TECHNICAL INSTITUTE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 165-20(6), as the same appears in the 1972 Replacement Volume 3D of the General Statutes, is hereby amended by adding at the end thereof the following:

“, or any technical institute operated under the provisions of Chapter 115A of the General Statutes of North Carolina.”

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

S. B. 744 CHAPTER 756

AN ACT AUTHORIZING LOCAL AND DISTRICT HEALTH DEPARTMENTS TO ENTER INTO AGREEMENTS WITH THE COMMISSIONER OF AGRICULTURE FOR SANITARY INSPECTION OF MEAT PACKAGING AND SLAUGHTERING ESTABLISHMENTS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 130 of the General Statutes is amended by inserting between G.S. 130-17 and G.S. 130-18 a new section to read as follows:

“§ 130-17.1. County health departments and district health departments shall have authority to enter into written agreements with the North Carolina Commissioner of Agriculture so as to provide that the duty and responsibility of inspecting those establishments listed in G.S. 106-549.22 shall be exercised exclusively by authorized representatives of the Commissioner of Agriculture. Such agreements shall be for such periods of time as the parties may determine.”

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

S. B. 749 CHAPTER 757

AN ACT TO EXEMPT CERTAIN MOTOR VEHICLES FROM REGISTRATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-51 is amended by adding a new subsection as follows:

“(8) Any vehicle which is driven or moved upon a highway only for the purpose of crossing or traveling upon such highway from one side to the other provided the owner or lessee of the vehicle owns the fee or a leasehold in all the land along both sides of the highway at the place of crossing.”

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

S. B. 837

CHAPTER 758

AN ACT TO AMEND THE CHILD LABOR LAW, ENABLING MINORS TO WORK IN ESTABLISHMENTS HOLDING BEER AND WINE LICENSES, SUBJECT TO CERTAIN CONDITIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 110-7 is hereby amended by adding the following sentence at the end of the section: "Nothing contained in this Chapter shall be construed to prohibit a minor who is 16 years of age or older from working in a restaurant that has a Grade A rating solely because said establishment has a malt beverage, wine, spirituous liquor or other permit issued by the State ABC Board; but a minor as described herein shall not be allowed to serve or dispense malt beverages, wine, or spirituous liquor."

Sec. 2. Subdivision (6) of G.S. 18A-39 and subdivision (5) of G.S. 105-113.80 are hereby amended by adding a proviso at the end of the subdivisions to read as follows:

"; provided, that no provision of this Chapter of any rule or regulation adopted pursuant thereto, shall be construed to prohibit a person who is 18 years of age or older from being a manager, employee or other person in charge of any establishment which has a license and permit for on or off premises sales of malt beverages or wine (fortified or unfortified)."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

S. B. 846

CHAPTER 759

AN ACT TO AMEND THE WORKMEN'S COMPENSATION ACT REGARDING BENEFITS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 97-29 is hereby amended by striking out "sixty percent (60%)" as the same appears in Line 5 of such section and by substituting in lieu thereof: "sixty-six and two-thirds percent".

Sec. 2. G.S. 97-30 is hereby amended by striking out "sixty per centum (60%)" as the same appears in Lines 4 and 5 of such section and by substituting in lieu thereof: "sixty-six and two-thirds percent".

Sec. 3. G.S. 97-31 is hereby amended as follows:

(a) G.S. 97-31(1) is hereby amended by striking out "sixty per centum (60%)" as the same appears in Line 1 of such subsection and by substituting in lieu thereof: "sixty-six and two-thirds percent".

(b) G.S. 97-31(2) is hereby amended by striking out "sixty per centum (60%)" as the same appears in Lines 1 and 2 of such subsection and by substituting in lieu thereof: "sixty-six and two-thirds percent".

(c) G.S. 97-31(3) is hereby amended by striking out "sixty per centum (60%)" as the same appears in Line 1 of such subsection and by substituting in lieu thereof: "sixty-six and two-thirds percent".

(d) G.S. 97-31(4) is hereby amended by striking out "sixty per centum (60%)" as the same appears in Line 1 of such subsection and by substituting in lieu thereof: "sixty-six and two-thirds percent".

(e) G.S. 97-31(5) is hereby amended by striking out “sixty per centum (60%)” as the same appears in Lines 1 and 2 of such subsection and by substituting in lieu thereof: “sixty-six and two-thirds percent”.

(f) G.S. 97-31(8) is hereby amended by striking out “sixty per centum (60%)” as the same appears in Line 1 of such subsection and by substituting in lieu thereof: “sixty-six and two-thirds percent”.

(g) G.S. 97-31(9) is hereby amended by striking out “sixty per centum (60%)” as the same appears in Lines 1 and 2 of such subsection and by substituting in lieu thereof: “sixty-six and two-thirds percent”.

(h) G.S. 97-31(12) is hereby amended by striking out “sixty per centum (60%)” as the same appears in Line 1 of such subsection and by substituting in lieu thereof: “sixty-six and two-thirds percent”.

(i) G.S. 97-31(13) is hereby amended by striking out “sixty per centum (60%)” as the same appears in Line 1 of such subsection and by substituting in lieu thereof: “sixty-six and two-thirds percent”.

(j) G.S. 97-31(14) is hereby amended by striking out “sixty per centum (60%)” as the same appears in Line 1 of such subsection and by substituting in lieu thereof: “sixty-six and two-thirds percent”.

(k) G.S. 97-31(15) is hereby amended by striking out “sixty per centum (60%)” as the same appears in Line 1 of such subsection and by substituting in lieu thereof: “sixty-six and two-thirds percent”.

(l) G.S. 97-31(16) is hereby amended by striking out “sixty per centum (60%)” as the same appears in Line 1 of such subsection and by substituting in lieu thereof: “sixty-six and two-thirds percent”.

(m) G.S. 97-31(18) is hereby amended by striking out “sixty per centum (60%)” as the same appears in Lines 1 and 3 of such subsection and by substituting in lieu thereof: “sixty-six and two-thirds percent”.

(n) G.S. 97-31(23) is hereby amended by striking out “sixty per centum (60%)” as the same appears in Line 1 of such subsection and by substituting in lieu thereof: “sixty-six and two-thirds percent”.

Sec. 4. G.S. 97-38 is hereby amended by striking out “sixty percent (60%)” as the same appears in Line 5 and by substituting in lieu thereof: “sixty-six and two-thirds percent”.

Sec. 5. G.S. 97-61.5(b) is hereby amended by striking out “sixty percent (60%)” as the same appears in Line 13 of such subsection and by substituting in lieu thereof: “sixty-six and two-thirds percent”.

Sec. 6. G.S. 97-61.6 is hereby amended by striking out “sixty per centum (60%)” as the same appears in Lines 10 and 11 and in Line 17 of such section and by substituting in lieu thereof: “sixty-six and two-thirds percent”.

Sec. 7. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 8. This act shall be in full force and effect from and after July 1, 1973 and shall only apply to cases occurring on or after July 1, 1973.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

S. B. 847

CHAPTER 760

AN ACT TO AMEND THE WORKMEN'S COMPENSATION ACT
REGARDING OCCUPATIONAL HEARING LOSS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 97-53(28)g. is hereby amended by striking out "To allow for the average amount of hearing loss from aging and nonoccupational causes found in the population at a given age, there shall be deducted, before determining the percentage of hearing impairment, from the total average decibel loss one-half decibel for each year of the employee's age over 38 at the time of last exposure to harmful noise." as the same appears in lines 20 through 26 of such subsection.

Sec. 2. G.S. 97-53(28)j. is hereby amended by striking out "The employer shall not be obligated to furnish the employee with hearing aids, including accessories and replacement, in cases of occupational hearing loss." as the same appears in lines 3 through 6 of such subsection and by substituting in lieu thereof:

"The North Carolina Industrial Commission may order the employer to provide the employee with an original hearing aid if it will materially improve the employee's ability to hear."

Sec. 3. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 4. This act shall be in full force and effect from and after July 1, 1973 and shall apply only to cases originating on and after July 1, 1973.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

S. B. 848

CHAPTER 761

AN ACT TO INCREASE WORKMEN'S COMPENSATION BENEFITS
FOR LOSS OF HANDS AND ARMS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 97-31(12) is hereby amended by striking out "170" as the same appears in line 2 of such subsection and by substituting in lieu thereof "200".

Sec. 2. G.S. 97-31(13) is hereby amended by striking out "220" as the same appears in line 2 of such subsection and by substituting in lieu thereof "240".

Sec. 3. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 4. This act shall be in full force and effect from and after July 1, 1973 and shall only apply to cases occurring on or after such date.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

S. B. 849

CHAPTER 762

AN ACT TO PROVIDE THREE ADDITIONAL COPIES OF THE APPELLATE DIVISION REPORTS TO THE NORTH CAROLINA INDUSTRIAL COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 147-45 is hereby amended by deleting the figure "8" as the same appears in line designated as "Industrial Commission" and by substituting in lieu thereof the figure "11".

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

S. B. 859

CHAPTER 763

AN ACT TO AMEND THE WORKMEN'S COMPENSATION ACT REGARDING COVERAGE OF ELECTED OFFICIALS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 97-2(2) is hereby amended by striking out "except only" as the same appears in lines 8 and 9 of such subsection and by substituting in lieu thereof "including".

Sec. 2. G.S. 97-2(2) is hereby amended by striking out "except" as the same appears in line 14 of such subsection and by substituting in lieu thereof "including".

Sec. 3. G.S. 97-2(2) is hereby amended by striking out "Provided, that the governing body of any municipal corporation or political subdivision may, in its discretion, bring officers elected by the people within the coverage of this Article by adopting an appropriate resolution, and during the time such resolution is in effect any such elected officer shall be deemed to be an 'employee' of such municipal corporation or political subdivision under this Article." as the same appears in lines 14 through 20 thereof.

Sec. 4. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 5. This act shall be in full force and effect from and after January 1, 1974.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

S. B. 869

CHAPTER 764**AN ACT TO REDUCE THE SIZE OF THE MOTOR VEHICLE REGISTRATION CARD.***The General Assembly of North Carolina enacts:*

Section 1. G.S. 20-57(b) is hereby amended by inserting immediately after the word "be" and immediately before the word "delivered" the words "of a size not to exceed 2 3/8 inches by 3 5/8 inches and shall be".

Sec. 2. G.S. 20-57(b) is hereby amended by inserting after the word vehicle appearing in line 5, the words "provided that if there are more than two owners the Department may show only two owners on the registration card and indicate that additional owners exist by placing after the names listed 'et al'."

Sec. 3. G.S. 20-57(d) is hereby amended by inserting immediately after the word "card" and immediately before the word "and" appearing in line 2, the words "except the abbreviation 'et al' if such appears and by inserting immediately after the word 'the' appearing in line 3, the words 'the name of all owners'."

Sec. 4. This act shall become effective January 1, 1975.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

S. B. 898

CHAPTER 765**AN ACT TO ESTABLISH AN ADVISORY COMMITTEE CONCERNING ANIMAL WASTE POLLUTION.***The General Assembly of North Carolina enacts:*

Section 1. Intent. An adequate supply of livestock, poultry and other animals which is essential to the health and economy of North Carolina and the nation, is dependent upon a competitive opportunity and a fair profit. The proper management and disposal of animal wastes are necessary to prevent water pollution and other health hazards and to maintain a quality environment. It is the intent of this act to provide a mechanism for the study of problems associated with animal waste disposal by the Board of Water and Air Resources with the aid of the Advisory Committee created by Section 4 of this act.

Sec. 2. Definitions. As used in this act, unless the context otherwise requires:

(1) "Animal" shall mean any species of food, fur or pleasure animal, including, but specifically not limited to, beef and dairy cattle, goats, horses, sheep and swine.

(2) "Poultry" shall mean any species of bird, including, but specifically not limited to, chickens, ducks, geese and turkeys.

(3) "Animal or poultry production unit" shall mean any area designed or used, in whole or in part, for the confined feeding or holding of animals or poultry.

(4) "Animal waste" shall mean

(a) feces;

(b) urine; and

(c) associated waste-waters which shall mean all liquid or water-borne wastes, deriving from or created by the operation of an animal or poultry

production unit, and shall include, without limitation, milking parlor wastes from raw milk dairies.

(5) "Board" shall mean the North Carolina Board of Water and Air Resources.

(6) "Confined feeding" shall mean the feeding of animals or poultry for food, fur or pleasure purposes in confined lots, pens, pools, or ponds which are not normally used for raising crops and in which no vegetation, intended for animal feedstuffs, is growing. This shall not include a wintering operation in lots or on farming ground unless the operation causes a pollution problem.

(7) "Holding" shall mean recurring, short-term confinement of animals or poultry.

(8) "Office" shall mean Office of Water and Air Resources, Department of Natural and Economic Resources or its successor agency.

Sec. 3. Survey of animal wastes. The Board of Water and Air Resources, with the aid of the Advisory Committee established by Section 4 of this act, shall conduct a preliminary survey and appraisal of the animal waste disposal problem in North Carolina. The survey shall be completed within 12 months after the effective date of this act, and shall be carried out with the cooperation and the assistance of the Commissioner of Agriculture and the Agricultural Extension Service.

Sec. 4. Advisory Committee. (a) There is established an Advisory Committee for the purpose of assisting and advising the Board in the development of: (i) criteria, standards, policies, rules and regulations that may hereafter be adopted by the Board concerning animal waste disposal, and (ii) proposals for legislation concerning animal waste disposal. The Advisory Committee shall study and make timely recommendations to the Board on all matters and things relative to animal waste disposal referred to the Advisory Committee by the Board or undertaken by the Advisory Committee on its own motion.

(b) Membership. The Advisory Committee shall be composed of five permanent members who shall be the Chairman of the North Carolina Board of Water and Air Resources, the Commissioner of the North Carolina Department of Agriculture, the State Health Director of the North Carolina State Board of Health, the Chairman of the North Carolina Soil and Water Conservation Committee, and the Chairman of the Wildlife Resources Commission, or their designees; four members who are employed in the School of Agriculture and Life Sciences of North Carolina State University to be appointed by and to serve at the pleasure of the Dean of the School of Agriculture and Life Sciences of North Carolina State University, one of whom shall be a person experienced in the management or production of animals or poultry, one of whom shall be a person experienced in biological and agricultural engineering, one of whom shall be a person experienced in aquatic biology, and one of whom shall be a person experienced in soil science; and six members, to be appointed by and to serve during the term of and at the pleasure of the Governor, one of whom shall be actively engaged in commercial poultry production, one of whom shall be actively engaged in commercial swine production, one of whom shall be actively engaged in commercial dairy production, and one of whom shall be actively engaged in commercial beef production, and two of whom shall be members at large who are professionally trained in ecology or natural resource conservation and not be persons engaged in animal or poultry production.

(c) Chairman. The Chairman of the Board of Water and Air Resources shall convene the Advisory Committee to elect a chairman and vice-chairman from its membership.

(d) Meetings. The chairman, or in his absence or incapacity the vice-chairman, from time to time shall call meetings of the committee to be held at such time and place as may be designated for the purpose of transacting the business of the committee. The chairman shall call a meeting at any time upon request in writing of any five of the members of the committee. A written notice shall be given to every member at least seven days in advance of the day of the meeting. A simple majority of the committee shall constitute a quorum.

(e) Compensation. Members of the committee shall receive the usual and customary per diem allowed for members of other boards and commissions of the State, and as fixed in the biennial appropriation act, and, in addition, shall receive subsistence and travel expenses according to the prevailing State practices and as allowed and fixed by statute for such purposes. These funds shall be paid from monies allocated to the Board. Per diem and subsistence payments shall be made for time necessarily spent by committee members in traveling to and from their places of residence within the State to any committee meeting.

(f) The office shall furnish to the committee any necessary supplies and clerical or stenographic services and shall maintain the official minutes and proceedings of the committee.

Sec. 5. This act shall become effective July 1, 1973, and shall remain in effect until September 1, 1975.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

S. B. 18

CHAPTER 766

AN ACT TO APPROPRIATE FUNDS TO SUPPLEMENT SALARIES OF LAW ENFORCEMENT OFFICERS.

The General Assembly of North Carolina enacts:

Section 1. Policy. The General Assembly finds that in order to upgrade the criminal justice system in North Carolina by attracting and retaining a high caliber of personnel in law enforcement, and to prevent a high personnel turnover, it is necessary to insure that law enforcement officers receive a reasonable salary. The purpose of this Chapter is to provide an appropriation to supplement salaries of law enforcement personnel in order that law enforcement personnel receive salaries at least equal to the minimum salaries set out herein until October 1, 1975, the supplement to be the difference between the individual gross salaries of law enforcement personnel as of January 1, 1973, and the minimum salaries set out in this act.

Sec. 2. Definitions. Terms used in this Chapter shall be construed as follows, unless another meaning is clearly apparent from the language or context, or unless such construction is inconsistent with the manifest intention of the legislature.

(1) "Assistant department head" means an officer occupying the first position(s) subordinate to the department head, and for which commensurate pay is authorized.

(2) "Department head" means a chief administrator of any agency of the State or any political subdivision thereof who is responsible for the

administration, enforcement, and/or the adjudication of the penal, correctional, traffic, or criminal laws of this State. This shall include but not be limited to chiefs of police, sheriffs, agency directors, chief judges, and clerks of court.

(3) "First level supervisory positions" means positions occupied by a police officer, deputy sheriff, or other employee which in the upward chain of command directly supervises law enforcement officers as defined in this section and for which commensurate pay is authorized.

(4) "Law enforcement officer" means any employee of a criminal justice agency which is a part of or administered by the State or any political subdivision thereof and who is responsible for the prevention and detection of crime or the enforcement of the traffic or criminal laws of this State, and who possesses the full power of arrest within the agency jurisdiction by virtue of an oath administered under the authority of the State.

(5) "Middle management positions" means those positions which are between first level supervisory positions and assistant department head positions as defined in this section, and for which commensurate pay is authorized.

Sec. 3. Department head salaries:

(1) for municipalities of less than 5,000 population, and counties of less than 25,000 population, seven thousand five hundred dollars (\$7,500) per year;

(2) for municipalities of 5,000 to 10,000 population, and counties of 25,000 to 50,000 population, nine thousand five hundred dollars (\$9,500) per year;

(3) for municipalities of 10,000 to 20,000 population, and counties of 50,000 to 100,000 population, twelve thousand dollars (\$12,000) per year;

(4) for municipalities of more than 20,000 population, and counties of more than 100,000 population, fourteen thousand dollars (\$14,000) per year.

Sec. 4. Assistant department head salaries:

(1) for municipalities of less than 5,000 population, and counties of less than 25,000 population, six thousand dollars (\$6,000) per year;

(2) for municipalities of 5,000 to 10,000 population, and counties of 25,000 to 50,000 population, seven thousand five hundred dollars (\$7,500) per year;

(3) for municipalities of 10,000 to 20,000 population, and counties of 50,000 to 100,000 population, nine thousand five hundred dollars (\$9,500) per year;

(4) for municipalities of more than 20,000 population, and counties of more than 100,000 population, twelve thousand dollars (\$12,000).

Sec. 5. Middle management position salaries:

(1) for municipalities of less than 10,000 population and counties of less than 50,000 population, six thousand dollars (\$6,000) per year;

(2) for municipalities of 10,000 to 20,000 population, and counties of 50,000 to 100,000 population, seven thousand five hundred dollars (\$7,500) per year; and

(3) for municipalities of more than 20,000 population, and counties of more than 100,000 population, nine thousand five hundred dollars (\$9,500) per year.

Sec. 6. First level supervisory position salaries:

(1) for municipalities of less than 20,000 population, and counties of less than 100,000 population, six thousand dollars (\$6,000) per year; and

(2) for municipalities of more than 20,000 population, and counties of more than 100,000 population, seven thousand five hundred dollars (\$7,500) per year.

Sec. 7. Law enforcement officer salaries:

(1) for all municipalities and all counties, six thousand dollars (\$6,000) per year.

Sec. 8. Implementation and administration. The provisions of this Chapter shall be implemented and administered by the Criminal Justice Training and Standards Council under the direction and supervision of the North Carolina Justice Department.

Sec. 9. Appropriations. Appropriations shall be made from the general fund to supplement the difference between the gross individual salaries of law enforcement officers as of January 1, 1973, and the minimum salaries set out in this act. Appropriations provided for in this act shall expire October 1, 1975.

Sec. 10. Census. The population figures referred to in this Chapter shall be based on the United States Federal Census of 1970.

Sec. 11. This act shall become effective October 1, 1973.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

S. B. 28

CHAPTER 767

AN ACT APPROPRIATING FUNDS TO THE CRIMINAL JUSTICE TRAINING AND STANDARDS COUNCIL FOR IMPLEMENTATION AND ADMINISTRATION OF THE LAW ENFORCEMENT OFFICERS MINIMUM SALARY ACT.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated to the Criminal Justice Training and Standards Council out of the General Fund of the State the sum of two million dollars (\$2,000,000) for the fiscal year beginning July 1, 1973, to be expended in the implementation and administration of the Law Enforcement Officers Minimum Salary Act.

Sec. 2. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

S. B. 394

CHAPTER 768

AN ACT TO AMEND G.S. 115A-5 AUTHORIZING COMMUNITY COLLEGES, TECHNICAL INSTITUTES, AND INDUSTRIAL EDUCATION CENTERS TO TEACH EXTENSION COURSES AT CONVENIENT LOCATIONS AWAY FROM INSTITUTION CAMPUSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115A-5 is amended by inserting after the first paragraph the following:

"In order to make instruction as accessible as possible to all citizens, the teaching of curricular courses and of non-curricular extension courses at convenient locations away from institution campuses as well as on campuses is authorized and shall be encouraged. A pro rata portion of the established regular tuition rate charged a full-time student shall be charged a part-time student taking any curriculum course. In lieu of any tuition charge, the State Board of Education shall establish a uniform registration fee, or a schedule of uniform registration fees, to be charged students enrolling in extension courses for which instruction is financed primarily from State funds; provided, however, that the State Board of Education may provide by general and uniform regulations for

waiver of tuition and registration fees for training courses for volunteer firemen, local law enforcement officers, and prison inmates.”

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

S. B. 449

CHAPTER 769

AN ACT TO APPROPRIATE FUNDS TO THE PERSON-CASWELL LAKE AUTHORITY FOR EXPANSION AND MAINTENANCE OF THE RECREATION PARK AT HYCO LAKE.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund of the State to the Person-Caswell Lake Authority, created pursuant to authority contained in Chapter 200, 1965 Session Laws, the sum of fifteen thousand dollars (\$15,000) to be used for the expansion and maintenance of the recreation park at Hyco Lake.

Sec. 2. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

S. B. 536

CHAPTER 770

AN ACT TO PROVIDE A REASONABLE LIMIT ON CLASS SIZE IN THE PUBLIC SCHOOLS OF NORTH CAROLINA SO AS TO IMPROVE INSTRUCTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115-59 is hereby repealed and a new G.S. 115-59.1 is inserted therein to read as follows:

“§ 115-59.1. *School organization statement and allocation of instructional personnel.*—(a) Each year the superintendent of each school administrative unit shall submit to the State Board of Education statements, certified by the Chairman of the Board of Education, showing the organization of the schools in his unit and any additional information the State Board may require. On the basis of the organization statements, and any other information considered relevant, the State Board of Education shall determine for each administrative unit the number of teachers and other instructional personnel to be included in the State budget.

(b) The State Board of Education shall allocate teachers and instructional personnel to the various administrative units in the following separate categories:

- (i) general teachers, including classified principals
- (ii) vocational teachers
- (iii) special education teachers

(c) The State Board of Education is authorized to promulgate rules and regulations to make the allotment of instructional personnel and teachers.

(d) The allotment of classified principals shall be one principal for each duly constituted school with seven or more State-allotted teachers and shall be included in the calculation of the allotment of general teachers set out in (b)(i) of this section.

(e) Upon receipt of the allotments, local boards of education shall organize schools and assign teachers to achieve the following class size maximums:

- (1) No more than 26 students per teacher in average daily membership for grades one through three.
- (2) No more than 33 students per teacher in average daily membership for the upper elementary grades.
- (3) No more than 35 students per class except as permitted by local boards of education and no more than 150 students per day in average daily membership for teachers in high schools and junior high schools except as permitted by regional accrediting agencies.

(f) When class size maximums are achieved, a local board of education may assign other teachers to teaching or nonteaching duties in the various schools.

(g) It shall be the responsibility of local boards of education to determine if any exceptions occur during the school year in the allowed maximums. If additional pupils are enrolled so as to cause assignment of pupils in excess of the allowed maximums, except for an emergency or act of God, it shall be the duty of any affected teacher and of the principal to notify the superintendent, who shall immediately report the deviation to the local board of education. Upon notification of excess deviations in the maximum class size, local boards shall take correctional steps and shall transfer teaching positions between schools, if necessary, to correct the excess deviation. If the local board cannot remedy the situation, it shall immediately apply to the State Board of Education for contingency funds for additional personnel to correct exceptions. Excess deviations which cannot be corrected by transfer of teachers and by use of contingency funds shall be temporarily allowed with permission of the State Board of Education.

At the end of the first month of school each year, the superintendent of each administrative unit shall file a report for each school with the State Board of Education. This report shall be filed on forms furnished by the Board and shall indicate the complete organization of each school, duties of each teacher or other instructional personnel, and class size or teaching load of each teacher."

Sec. 2. It shall be the duty of local boards of education to provide adequate classroom facilities to meet the requirements of this act.

Sec. 3. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

S. B. 538

CHAPTER 771

AN ACT TO REGULATE THE SALES OF COMMERCIAL FEEDS.

The General Assembly of North Carolina enacts:

Section 1. Purpose. The purpose of this act is to regulate the manufacture and distribution of commercial feeds in the State of North Carolina and to protect a farmer-buyer from the manufacturer-seller of concentrated, commercial feed who might sell substandard or mislabeled feed stuff, and not to protect from himself a farmer who mixes his own feed.

Sec. 2. Title. This act shall be known as the "North Carolina Commercial Feed Law of 1973".

Sec. 3. *Enforcing Official.* This act shall be administered by the Commissioner of Agriculture of the State of North Carolina, hereinafter referred to as the "Commissioner".

Sec. 4. *Definitions of Words and Terms.* When used in this act:

- (a) The term "Board" means the North Carolina State Board of Agriculture.
- (b) The term "person" means an individual, a partnership, a corporation, an association, and any other legal entity.
- (c) The term "distribute" means to offer for sale, sell, exchange, or barter, commercial feed.
- (d) The term "distributor" means any person who distributes.
- (e) The term "commercial feed" means all materials, except whole unmixed seed such as corn, including physically altered entire unmixed seeds when not adulterated within the meaning of Section 9(a), which are distributed for use as feed or for mixing in feed; provided, that the Board by regulation may exempt from this definition, or from specific provisions of this act, hay, straw, stover, silage, cobs, husks, hulls and individual chemical compounds or substances which are not intermixed or mixed with other materials, and are not adulterated within the meaning of Section 9(a), of this act.
- (f) The term "feed ingredient" means each of the constituent materials making up a commercial feed.
- (g) The term "mineral feed" means a commercial feed intended to supply primarily mineral elements or inorganic nutrients.
- (h) The term "drug" means any article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals other than man and articles other than feed intended to affect the structure or any function of the animal body.
- (i) The term "customer-formula feed" means commercial feed, each batch of which is mixed according to the formula of the customer, furnished in writing over the signature of the customer or his designated agent with each batch moved directly from the manufacturer to the customer and not stocked or displayed in a dealer's warehouse or sales area and not resold or redistributed to any person.
- (j) The term "manufacture" means to grind, mix or blend, or further process a commercial feed for distribution.
- (k) The term "brand name" means any word, name, symbol, or device, or any combination thereof, identifying the commercial feed of a distributor or registrant and distinguishing it from that of others.
- (l) The term "product name" means the name of the commercial feed which identifies it as to kind, class, or specific use.
- (m) The term "label" means a display of written, printed, or graphic matter upon or affixed to the container in which a commercial feed is distributed, or on the invoice or delivery slip with which a commercial feed is distributed.
- (n) The term "labeling" means all labels and other written, printed, or graphic matter (1) upon a commercial feed or any of its containers or wrapper or (2) accompanying such commercial feed, or advertisement, brochures, posters, television and radio announcements used in promoting the sale of such commercial feed.
- (o) The term "ton" means a net weight of two thousand pounds avoirdupois.

(p) The terms “percent” or “percentage” means percentage by weight, except in Section 13 of this act where these terms refer to the retail value of the lot of commercial feed.

(q) The term “official sample” means a sample of feed taken by the Commissioner or his agent in accordance with the provisions of Section 13 (a), (c), or (e) of this act.

(r) The term “pet” means any domesticated animal normally maintained in or near the household(s) of the owner(s) thereof.

(s) The term “pet food” means any commercial feed prepared and distributed for consumption by pets.

(t) The term “canned pet food” means any commercial feed packed in cans or hermetically sealed containers, and used or intended for use as food for pets.

(u) The term “specialty pet food” means any commercial feed prepared and distributed for consumption by specialty pets.

(v) The term “specialty pet” means any domesticated animal pet normally maintained in a cage or tank, such as, but not limited to, gerbils, hamsters, canaries, psittacine birds, mynahs, finches, tropical fish, goldfish, snakes and turtles.

(w) The terms “permitted analytical variation” means allowance for the inherent variability in sampling and laboratory analysis in guaranteed components. Manufacturing variations and their effects on the guaranteed components are not included in such values.

Sec. 5. Registration. (a) No person shall manufacture or distribute a commercial feed in this State, unless he has filed with the Commissioner on forms provided by the Commissioner, his name, place of business, and location of each manufacturing facility in this State, if any, and made application to the Commissioner for a permit to report the quantity of commercial feed distributed in this State.

(b) Manufacturers of registered feeds may apply for, and the Commissioner at his discretion may issue, numbered permits authorizing manufacturers of registered feeds to purchase commercial feed as defined in Section 4(e), and the responsibility for the payment of the inspection fee assessed by the provisions of this act will be assumed by the purchaser to whom such permit has been issued. The Commissioner may at his discretion, and without notice, cancel any permit issued under the provision of this section. The use of permits issued under the provisions of this section shall be governed by rules and regulations promulgated by the Commissioner.

(c) No person shall distribute in this State a commercial feed, except a customer formula feed, which has not been registered pursuant to the provisions of this section. The application for registration shall be submitted in the manner prescribed by the Commissioner. Upon approval by the Commissioner or his duly designated agent the registration shall be issued to the applicant. All registrations expire on the 31st day of December of each year. An annual registration fee of one dollar (\$1.00) for each commercial feed other than canned pet food shall accompany each request for registration. An annual registration fee of five dollars (\$5.00) for each canned pet food shall accompany each request for registration.

(d) The Commissioner is empowered to refuse registration of any commercial feed not in compliance with the provisions of this act and to cancel any registration subsequently found not to be in compliance with any provisions of

this act: Provided, that no registration shall be refused or canceled unless the registrant shall have been given an opportunity to be heard before the Commissioner or his duly designated agent and to amend his application in order to comply with the requirements of this act.

(e) The manufacturer of commercial feed that has not been registered and is found being distributed in the State shall pay a twenty-five dollar (\$25.00) delinquent registration fee in addition to the regular registration fee.

Sec. 6. Labeling. A commercial feed shall be labeled as follows:

(a) In case of commercial feed, except a customer-formula feed, it shall be accompanied by a label bearing the following information:

- (1) The net weight.
- (2) The product name and the brand name, if any, under which the commercial feed is distributed.
- (3) The guaranteed analysis stated in such terms as the Board by regulation determines is required to advise the users of the composition of the feed or to support claims made in the labeling. In all cases the substances or elements must be determinable by laboratory methods such as the methods published by the Association of Official Analytical Chemists.
- (4) The common or usual name of each ingredient used in the manufacture of the commercial feed: Provided, that the Board by regulation may permit the use of collective terms for a group of ingredients which perform a similar function, or the Board may exempt such commercial feeds, or any group thereof, from this requirement of an ingredient statement if it finds that such statement is not required in the interest of consumers.
- (5) The name and principal mailing address of the manufacturer or the person distributing the commercial feed.
- (6) Adequate directions for use for all commercial feeds containing drugs and for such other feeds as the Board may require by regulations as necessary for their safe and effective use.
- (7) Such precautionary statements as the Board by regulation determines are necessary for the safe and effective use of the commercial feed.

(b) In the case of a customer-formula feed, it shall be accompanied by a label, invoice, delivery slip, or other shipping document to be presented to the purchaser at time of delivery, bearing the following information:

- (1) Name and address of the manufacturer.
- (2) Name and address of the purchaser.
- (3) Date of delivery.
- (4) The product name and brand name, if any, and the net weight of each registered commercial feed used in the mixture, and the net weight of each other ingredient used.
- (5) Adequate directions for use for all customer-formula feeds containing drugs and for such other feeds as the Board may require by regulation as necessary for their safe and effective use.
- (6) Such precautionary statements as the Board by regulation determines are necessary for the safe and effective use of the customer-formula feed.

Sec. 7. Bag Weights. All commercial feed except that in bags or packages of five pounds or less, shall be in such standard weight bags or packages as the Board by regulation shall prescribe.

Sec. 8. Misbranding. A commercial feed shall be deemed to be misbranded:

- (a) If its labeling is false or misleading in any particular.
- (b) If it is distributed under the name of another commercial feed.
- (c) If it is not labeled as required in Section 6 of this act.
- (d) If it purports to be or is represented as a commercial feed, or if it purports to contain or is represented as containing a commercial feed ingredient, unless such commercial feed or feed ingredient conforms to the definition, if any, prescribed by regulation by the Board.
- (e) If any word, statement, or other information required by or under authority of this act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

Sec. 9. Adulteration. A commercial feed shall be deemed to be adulterated:

- (a) (1) If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance, such commercial feed shall not be considered adulterated under this subsection if the quantity of such substance in such commercial feed does not ordinarily render it injurious to health; or
- (2) If it bears or contains any added poisonous, added deleterious, or added nonnutritive substance which is unsafe within the meaning of Section 406 of the Federal Food, Drug and Cosmetic Act (other than one which is (i) a pesticide chemical in or on a raw agricultural commodity; or (ii) a food additive); or
- (3) If it is, or it bears or contains any food additive which is unsafe within the meaning of Section 409 of the Federal Food, Drug and Cosmetic Act; or
- (4) If it is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe within the meaning of Section 408(a) of the Federal Food, Drug and Cosmetic Act; provided, that where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or a tolerance prescribed under Section 408 of the Federal Food, Drug and Cosmetic Act and such raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating, or milling, the residue of such pesticide chemical remaining in or on such processed feed shall not be deemed unsafe if such residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice and the concentration of such residue in the processed feed is not greater than the tolerance prescribed for the raw agricultural commodity unless the feeding of such processed feed will result or is likely to result in a pesticide residue in the edible product of the animal, which is unsafe within the meaning of Section 408(a), of the Federal Food, Drug and Cosmetic Act.
- (5) If it is, or it bears or contains any color additive which is unsafe within the meaning of Section 706 of the Federal Food, Drug and Cosmetic Act.

(b) If any valuable constituent has been in whole or in part omitted or abstracted therefrom or any less valuable substance substituted therefor.

(c) If its composition or quality falls below or differs from that which it is purported or is represented to possess by its labeling.

(d) If it contains a drug and the methods used in or the facilities or controls used for its manufacture, processing, or packaging do not conform to current good manufacturing practice regulations promulgated by the Board to assure that the drug meets the requirements of this act as to safety and has the identity and strength and meets the quality and purity characteristics which it purports or is represented to possess. In promulgating such regulations, the Board shall adopt the current good manufacturing practice regulations for medicated feed premixes and for medicated feeds established under authority of the Federal Food, Drug and Cosmetic Act, unless it determines that they are not appropriate to the conditions which exist in this State.

(e) If it contains viable weed seeds in amounts exceeding the limits which the Board shall establish by rule or regulation.

Sec. 10. *Prohibited Acts.* The following acts and the causing thereof within the State of North Carolina are hereby prohibited:

(a) The manufacture or distribution of any commercial feed that is adulterated or misbranded.

(b) The adulteration or misbranding of any commercial feed.

(c) The distribution of agricultural commodities such as whole seed, hay, straw, stover, silage, cobs, husks, and hulls, which are adulterated within the meaning of Section 9(a), of this act.

(d) The removal or disposal of a commercial feed in violation of an order under Section 14 of this act.

(e) The failure or refusal to register in accordance with Section 5 of this act.

(f) The violation of Section 15(f) of this act.

(g) Failure to pay inspection fees and file reports as required by Section 11 of this act.

(h) The use of metal fasteners as bag fasteners or for attaching labels to the containers of commercial feed.

Sec. 11. *Inspection Fees and Reports.* (a) An inspection fee at the rate of two cents (2¢) for each carton of 48 cans shall be paid on canned pet food distributed in this State by the person whose name appears on the label as the manufacturing distributor or guarantor subject to (b) 1, 2, 3, and 5 of this section.

(b) An inspection fee at the rate of 12 cents per ton shall be paid on commercial feeds distributed in the State by the person whose name appears on the label of the commercial feed as the manufacturer, distributor or guarantor of the commercial feed, subject to the following:

(1) No fee shall be paid on a commercial feed if the payment has been made by a previous distributor.

(2) No fee shall be paid on customer-formula feeds if the inspection fee is paid on the commercial feeds which are used as ingredients therein.

(3) No fee shall be paid on commercial feeds which are used as ingredients or a base for the manufacture of commercial feeds which are registered, if the fee has already been paid. If the inspection fee has already been

paid on such commercial feed, the amount paid shall be deducted from the gross amount due on the total feed produced.

- (4) In the case of a commercial feed other than canned pet food which is distributed in the State only in packages of five pounds or less, an annual registration fee of twenty-five dollars (\$25.00) shall be paid in lieu of the inspection fee specified above.
- (5) The minimum inspection fee shall be ten dollars (\$10.00) per quarter unless no feed was sold in the State during the quarter.
- (c) Each person who is liable for the payment of such fee shall:
 - (1) File, not later than the last day of January, April, July and October of each year, a quarterly statement setting forth the number of net tons of commercial feeds and/or cases of canned pet food distributed in this State during the preceding calendar quarter, and upon filing such statements shall pay the inspection fee at the rate stated in paragraphs (a) and (b) of this section. Inspection fees which are due and owing and have not been remitted to the Commissioner within 15 days following the due date shall have a penalty fee of 10 percent (Minimum \$10.00) added to the amount due when payment is finally made. The assessment of this penalty fee shall not prevent the Commissioner from taking other actions as provided in this Chapter.
 - (2) Keep such records as may be necessary or required by the Commissioner to indicate accurately the tonnage of commercial feed distributed in this State, and the Commissioner or his duly designated agent, shall have the right to examine such records during normal business hours, to verify statements of tonnage. Failure to make an accurate statement of tonnage or to pay the inspection fee or comply as provided herein shall constitute sufficient cause for the cancellation of all registrations on file for the distributor.

Sec. 12. Rules and Regulations. (a) The Board is authorized to promulgate such rules and regulations for commercial feeds and pet foods as are specifically authorized in this act and such other reasonable rules and regulations as may be necessary for the efficient enforcement of this act. In the interest of uniformity the Board shall by regulation adopt, unless it determines that they are inconsistent with the provisions of this act or are not appropriate to conditions which exist in this State, the following:

- (1) The Official Definitions of Feed Ingredients and Official Feed Terms adopted by the Association of American Feed Control Officials and published in the Official Publication of that organization, and
 - (2) Any regulations promulgated pursuant to the authority of the Federal Food, Drug and Cosmetic Act (U.S.C. Sec. 301, et. seq.).
- (b) Before the issuance, amendment, or repeal of any rule or regulation authorized by this act, the Board shall publish the proposed regulation, amendment, or notice to repeal an existing regulation in a manner reasonably calculated to give interested parties, including all current registrants, adequate notice and shall afford all interested persons an opportunity to present their views thereon, orally or in writing, within a reasonable period of time. After consideration of all views presented by interested persons, the Board shall take appropriate action to issue the proposed rule or regulation or to amend or repeal an existing rule or regulation. The provisions of this paragraph notwithstanding, if the Board pursuant to the authority of this act, adopts the Official Definitions

of Feed Ingredients or Official Feed Terms as adopted by the Association of American Feed Control Officials, or regulations promulgated pursuant to the authority of the Federal Food, Drug and Cosmetic Act, any amendment or modification adopted by said Association or by the Secretary of Health, Education and Welfare in the case of regulations promulgated pursuant to the Federal Food, Drug and Cosmetic Act, shall be deemed adopted automatically under this act without regard to the publication of the notice required by this paragraph (b), unless the Board, by resolution specifically determines that said amendment or modification shall not be adopted.

Sec. 13. *Inspection, Sampling, and Analysis.* (a) For the purpose of enforcement of this act, and in order to determine whether its provisions have been complied with, including whether or not any operations may be subject to such provisions, officers or employees duly designated by the Commissioner upon presenting appropriate credentials, to the owner, operator, or agent in charge, are authorized (1) to enter, during normal business hours or actual operation, any factory, warehouse, or establishment within the State in which commercial feeds are manufactured, processed, packed, or held for distribution and take samples therefrom or to enter any vehicle being used to transport or hold such feeds and take samples therefrom; and (2) to inspect during normal business hours or while in operation, such factory, warehouse, establishment or vehicle and all pertinent equipment, finished or unfinished materials, containers, and labeling therein. The inspection may include the verification of such records, and production and control procedures as may be necessary to determine compliance with this act.

(b) A separate presentation of appropriate credentials shall be given for each such inspection, but a presentation shall not be required for each entry made during the period covered by the inspection. Each such inspection shall be commenced and completed with reasonable promptness. Upon completion of the inspection, the person in charge of the facility or vehicle shall be so notified.

(c) If the officer or employee making such inspection of a factory, warehouse, or other establishment has obtained a sample(s) in the course of the inspection, upon completion of the inspection and prior to leaving the premises he shall give to the owner, operator, or agent in charge a receipt describing the sample(s) obtained.

(d) If the owner of any factory, warehouse or establishment described in paragraph (a), or his agent, refuses to admit the Commissioner or his agent to inspect in accordance with paragraphs (a) and (b), the Commissioner or his agent is authorized to obtain without notice from any district or superior court judge within the county where the facility is located, an order directing such owner or his agent to submit the premises described in such order to inspection.

(e) Sampling and analysis shall be conducted in accordance with methods published by the Association of Official Analytical Chemists, or in accordance with other generally recognized methods.

(f) The results of all analyses of official samples shall be forwarded by the Commissioner to the person named on the label and to the dealer. When the inspection and analysis of an official sample indicates a commercial feed has been adulterated or misbranded, and upon written request within 30 days following receipt of the analysis, the Commissioner shall furnish to the registrant a portion of the sample concerned.

(g) The Commissioner, in determining for administrative purposes whether a commercial feed is deficient in any component, shall be guided by the official sample as defined in paragraph (q) Section 4 and obtained and analyzed as provided for in paragraphs (a), (c), and (e) of Section 13 of this act.

(h) The Board is authorized to adopt regulations establishing permitted analytical variation providing for reasonable deviation from the guaranteed analysis.

(i) The registrant of a commercial feed found to be in significant violative deviation from the guarantee shall be subject to a penalty for this deviation.

(j) If the analysis of a sample shows a deviation from permitted analytical variation established by the Board, the registrant or other responsible person shall be penalized according to the following schedule:

<u>Component Deviating</u>	<u>Method of Penalty Assessment</u>
Crude protein	3 times the relative percentage* of deviation from the guarantee times the retail value of the commercial feed.
Crude fat	10 percent of retail value of the lot of commercial feed.
Crude fiber	10 percent of retail value of the lot of commercial feed.
Vitamins	10 percent of retail value of the lot of commercial feed.
Minerals	10 percent of retail value of the lot of commercial feed.
Crude protein equivalent from non-protein nitrogen	10 percent of retail value of the lot of commercial feed.
Animal drugs	20 percent of retail value of the lot of commercial feed.
Antibiotics	20 percent of retail value of the lot of commercial feed.
Other analysis	10 percent of retail value of the lot of commercial feed.

*Example, a feed guaranteed 16.0% protein and assaying only 14.0%, will be considered as $2.0\%/16.0\%$, or 12.5% deficient in protein. The penalty will be computed as $3 \times 0.125 \times$ retail value of the feed, or $0.375 \times$ retail value of the feed.

(k) Penalties for multiple deficiencies within a sample shall be additive; provided that in no case shall the penalty exceed the retail value of the product. The minimum penalty under any of the foregoing provisions shall be twenty-five dollars (\$25.00) or the retail value of the product whichever is smaller, regardless of the value of the deficiency.

(l) Within 60 days from the date of written notice by the Commissioner or his duly designated agent to the manufacturer, guarantor, dealer or agent, all penalties assessed and collected under this section shall be paid to the purchaser of the lot of feed or canned pet food represented by the sample analyzed. When such penalties are paid, receipts shall be taken and promptly forwarded to the Commissioner of Agriculture. If said consumers cannot be found, the amount of

the penalty assessed shall be paid to the Commissioner of Agriculture who shall deposit the same in the Department of Agriculture fund, of which the State Treasurer is custodian, for the express purpose of enforcement of this act.

Sec. 14. *Detained Commercial Feeds.* (a) "Withdrawal from distribution" orders: When the Commissioner or his authorized agent has reasonable cause to believe any lot of commercial feed is being distributed in violation of any of the provisions of this act or of any of the prescribed regulations under this act, he may issue and enforce a written or printed "withdrawal from distribution" order, ordering the distributor not to dispose of the lot of commercial feed in any manner until written permission is given by the Commissioner or a court. The Commissioner shall release the lot of commercial feed so withdrawn when said provisions and regulations have been complied with. If compliance is not obtained within 30 days, the Commissioner may begin, or upon request of the distributor or registrant shall begin, proceedings for condemnation.

(b) "Condemnation and confiscation": Any lot of commercial feed not in compliance with said provisions and regulations shall be subject to seizure on complaint of the Commissioner to the superior court in the county in which said commercial feed is located. In the event the court finds the said commercial feed to be in violation of this act, and orders the condemnation of said commercial feed, it shall be disposed of in any manner consistent with the quality of the commercial feed and the laws of the State, provided, that in no instance shall the disposition of said commercial feed be ordered by the court without first giving the claimant an opportunity to apply to the court for release of said commercial feed or for permission to process or relabel said commercial feed to bring it into compliance with this act. All costs and expenses incurred by the Department of Agriculture in any proceedings associated with such seizure and confiscation shall be paid by the claimant.

Sec. 15. *Penalties.* (a) Any person who shall be adjudged to have violated any provision of this act, or any regulation of the Board adopted pursuant to this act, shall be guilty of a misdemeanor, and for each violation shall be fined not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000) or shall be imprisoned for not more than 60 days, or both. In addition, if any person continues to violate or further violates any provision of this act after written notice from the Commissioner, or his duly designated agent, the court may determine that each day during which the violation continued or is repeated constitutes a separate violation subject to the foregoing penalties.

(b) Nothing in this act shall be construed as requiring the Commissioner or his representative to: (1) report for prosecution, or (2) institute seizure proceedings, or (3) issue a withdrawal from distribution order, as a result of minor violations of the act, or when he believes the public interest will best be served by suitable notice of warning in writing.

(c) It shall be the duty of each solicitor to whom any violation is reported to cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay. Before the Commissioner reports a violation for such prosecution, an opportunity shall be given the distributor to present his view to the Commissioner or his designated agent.

(d) The Commissioner is hereby authorized to apply for and the court to grant a temporary restraining order and a preliminary or permanent injunction restraining any person from violating or continuing to violate any of the

provisions of this act or any rule or regulation promulgated under the act notwithstanding the existence of other remedies at law.

(e) Any person adversely affected by an act, order, or ruling made pursuant to the provisions of this act may within 30 days thereafter bring action in the Superior Court of Wake County for judicial review of such act, order or ruling according to the provisions of Article 33 of Chapter 143 of the General Statutes.

(f) Any person who uses to his own advantage, or reveals to other than the Board, or officers of the other State agencies whose requests are deemed justifiable by the Commissioner, or to the courts when relevant in any judicial proceeding, any information acquired under the authority of this act, concerning any method, records, formulations, or processes which as a trade secret is entitled to protection, is guilty of a misdemeanor and shall be subject upon conviction to the penalties contained in subsection (a) of this section; provided, that this prohibition shall not be deemed as prohibiting the Commissioner, or his duly authorized agent, from exchanging information of a regulatory nature with duly appointed officials of the United States Government, or of the other states, who are similarly prohibited by law from revealing this information.

Sec. 16. *Cooperation with Other Entities.* The Commissioner may cooperate with and enter into agreements with governmental agencies of this State, other states, agencies of the Federal Government, and private associations in order to carry out the purpose and provisions of this act.

Sec. 17. *Publication.* The Commissioner shall publish at least annually, in such forms as he may deem proper, information concerning the sales of commercial feeds, together with such data on their production and use as he may consider advisable, and a report of the results of the analyses of official samples of commercial feeds sold within the State as compared with the analyses guaranteed in the registration and on the label; provided, that the information concerning production and use of commercial feed shall not disclose the operations of any person.

Sec. 18. *Constitutionality.* If any clause, sentence, paragraph, or part of this act shall for any reason be judged invalid by any court of competent jurisdiction, such judgment shall not affect, impair, or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Sec. 19. *Repeal.* (a) All laws and clauses of laws in conflict with or inconsistent with the provisions of this act are hereby repealed and Articles 9 and 13, Chapter 106 of the General Statutes are hereby specifically repealed.

(b) Notwithstanding any other provisions of law, all existing rules and regulations concerning commercial feeds and canned pet foods of the North Carolina Department of Agriculture and any other agency of the State of North Carolina, not inconsistent with the provisions of this act shall continue in full force and effect until repealed, modified or amended.

Sec. 20. There is hereby appropriated out of the General Fund, in addition to all other appropriations, to the Department of Agriculture eighty thousand six hundred thirty-nine dollars (\$80,639) for fiscal year 1973-74 to carry out the provisions of this act.

Sec. 21. *Effective Date.* This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

S. B. 547

CHAPTER 772

AN ACT TO APPROPRIATE FIFTY THOUSAND DOLLARS (\$50,000) TO THE JUNIOR ORDER CHILDREN'S HOME.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated to the Junior Order Children's Home in Lexington, North Carolina, from the General Fund, in addition to all other appropriations, the sum of fifty thousand dollars (\$50,000) for the 1973-74 fiscal year for the purpose of enabling the Children's Home to continue its renovation program so that it may comply with the standards established by the Department of Social Services.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

S. B. 620

CHAPTER 773

AN ACT TO APPROPRIATE FUNDS FOR A GRANT-IN-AID TO THE EAST CAROLINA UNIVERSITY SUMMER THEATRE.

Whereas, the East Carolina University Summer Theatre has for several years provided summer entertainment and cultural enrichment for the people of North Carolina in the form of musical and dramatic productions; and

Whereas, the Theatre is a credit to the institution and to the State; and

Whereas, the Theatre's financial operations are maintained separate and apart from the financial operations of East Carolina University; and

Whereas, the Theatre has for the most part been self-sustaining, deriving its support over the years from admission charges and other receipts with the exception of a single grant-in-aid from the State in 1969; and

Whereas, modest additional support from the State is now needed to supplement admission charges in order to maintain the level of excellence previously achieved; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated out of the General Fund of the State of North Carolina for the fiscal year 1973-74 the sum of fifteen thousand dollars (\$15,000) as a grant-in-aid to the East Carolina University Summer Theatre.

Sec. 2. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

S. B. 715

CHAPTER 774

AN ACT TO AMEND G.S. 122-63.1 OF THE GENERAL STATUTES TO AUTHORIZE THE CLERK TO INVOLUNTARILY COMMIT PERSONS DIRECTLY TO STATE HOSPITALS IN CERTAIN INSTANCES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 122-63.1, as the same appears in the 1971 Cumulative Supplement of Volume 3B of the General Statutes, is hereby amended by inserting immediately following the words "rules and regulations of State agencies," in the last sentence of the first paragraph the following:

"Provided further, that in the event commitment to the designated local mental health center or other facility as specified herein cannot be made due to space being unavailable or for any other reason, the clerk upon finding as facts the reason or reasons for the refusal of such center or facility to admit such person is hereby authorized to commit such person directly to the appropriate State hospital."

Sec. 2. This act shall become effect upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

S. B. 814

CHAPTER 775

AN ACT TO AMEND G.S. 143-127.1 PROVIDING FOR PAYMENT OF COST OF CARE IN STATE DEPARTMENT OF MENTAL HEALTH FACILITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-127.1 is hereby rewritten to read as follows:

"§ 143-127.1. *Parental liability for payment of cost of care for long-term patients in State Department of Mental Health facilities.*—(a) Notwithstanding the foregoing provisions of G.S. 143-117 through G.S. 143-127 inclusive, the natural or adoptive parents of persons who are long-term patients at facilities owned or operated by the State Department of Mental Health shall only be liable on the charges made by such facility for treatment, care and maintenance for an amount not to exceed the cost of caring for a normal child at home as determined from standard sources by the State Department of Mental Health.

(b) Parents or adoptive parents of a long-term patient in a facility owned or operated by the State Department of Mental Health shall not be liable for any charges made by such facility for treatment, care and maintenance of such a patient incurred or accrued subsequent to such patient attaining age 18.

(c) For purposes of this section, the term 'long-term patient' is defined as a person who has been a patient in a facility owned or operated by the State Department of Mental Health for a continuous period in excess of 120 days. No absence of a patient from the facility due to a temporary or trial visit shall be counted as interrupting the accrual of the 120 days herein required to attain the status on a long-term patient."

Sec. 2. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

S. B. 826

CHAPTER 776

AN ACT TO AMEND CHAPTER 147, SECTION 50, OF THE NORTH CAROLINA GENERAL STATUTES RELATING TO DISTRIBUTION OF PUBLICATIONS OF STATE OFFICIALS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 147-50 as it is set out in the 1971 Cumulative Supplement to Volume 3C of the General Statutes is amended by adding the following:

“Legislative Library 2 copies;”
after the last entry in the list of institutions.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

S. B. 881

CHAPTER 777

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF HUMAN RESOURCES FOR COORDINATING NUTRITION PROGRAMS WITHIN STATE GOVERNMENT.

The General Assembly of North Carolina enacts:

Section 1. In addition to all other funds appropriated at the 1973 Session of the General Assembly for programs and activities concerning nutrition, there is hereby appropriated, out of the General Fund of the State, to the Department of Human Resources the sum of twenty-five thousand dollars (\$25,000) for fiscal year beginning July 1, 1973, and ending June 30, 1974, for the purpose of supporting the coordination of nutrition programs within State Government.

Sec. 2. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

S. B. 914

CHAPTER 778

AN ACT TO ADJUST AND FIX THE COMPENSATION TO BE PAID THE MEMBERS OF THE COUNCIL OF STATE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 147 of the General Statutes as it appears in the 1971 Cumulative Supplement is amended by deleting the words and figures “twenty-five thousand dollars (\$25,000)” from line 2 of G.S. 147-35 and inserting in lieu thereof the words and figures “thirty-one thousand dollars (\$31,000)”; by deleting the words and figures “twenty-five thousand dollars (\$25,000)” from line 2 of G.S. 147-55 and inserting in lieu thereof the words and figures “thirty-one thousand dollars (\$31,000)”; by deleting the words and figures “twenty-five thousand dollars (\$25,000)” from line 2 of G.S. 147-65 and inserting in lieu thereof the words and figures “thirty-one thousand dollars (\$31,000).”

Sec. 2. Chapter 115 of the General Statutes as it appears in the 1971 Cumulative Supplement is amended by deleting the words and figures “thirty-one thousand dollars (\$31,000)” from lines 3 and 4 of the second paragraph of G.S. 115-13 and inserting in lieu thereof the words and figures “thirty-three thousand five hundred dollars (\$33,500).”

Sec. 3. Chapter 114 of the General Statutes as it appears in the 1971 Cumulative Supplement is amended by deleting the words and figures "twenty-nine thousand five hundred dollars (\$29,500)" from line 2 of G.S. 114-7 and inserting in lieu thereof the words and figures "thirty-five thousand dollars (\$35,000)."

Sec. 4. Chapter 106 of the General Statutes as it appears in the 1971 Cumulative Supplement is amended by deleting the words and figures "twenty-five thousand dollars (\$25,000)" from line 2 of G.S. 106-11 and inserting in lieu thereof the words and figures "thirty-one thousand dollars (\$31,000)."

Sec. 5. Chapter 95 of the General Statutes as it appears in the 1971 Cumulative Supplement is amended by deleting the words and figures "twenty-five thousand dollars (\$25,000)" from line 4 of G.S. 95-2 and inserting in lieu thereof the words and figures "thirty-one thousand dollars (\$31,000)."

Sec. 6. Chapter 58 of the General Statutes as it appears in the 1971 Cumulative Supplement is amended by deleting the words and figures "twenty-five thousand dollars (\$25,000)" from line 2 of G.S. 58-6 and inserting in lieu thereof the words and figures "thirty-one thousand dollars (\$31,000)."

Sec. 7. It is the purpose of this act to fix the salary of the Attorney General at thirty-five thousand dollars (\$35,000) per annum, the salary of the Superintendent of Public Instruction at thirty-three thousand five hundred dollars (\$33,500) per annum, the salary of the Commissioner of Agriculture at thirty-one thousand dollars (\$31,000) per annum, and the salaries of the other members of the Council of State at thirty-one thousand dollars (\$31,000) per annum.

Sec. 8. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 9. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

S. B. 939

CHAPTER 779

AN ACT TO APPOINT THE BOARD OF COMMISSIONERS AND MAYOR OF THE TOWN OF CERRO GORDO, UNTIL THE NEXT ELECTION.

The General Assembly of North Carolina enacts:

Section 1. The Board of Commissioners of the Town of Cerro Gordo shall consist of the following persons: J. J. Andel, Floyd J. Harrelson, E. P. Leatherbury and Levane Herring.

The Mayor of the Town of Cerro Gordo shall be Otto Nance.

Sec. 2. The persons appointed in Section 1 of this act shall serve until their successors are elected and qualified in the election to be held in November 1973.

Sec. 3. The municipal elections in the Town of Cerro Gordo shall be nonpartisan and decided by a simple plurality, and shall be held and conducted in accordance with the applicable provisions of Articles 23 and 24 of Chapter 163 of the General Statutes. The municipal elections shall be held and conducted by the Columbus County Board of Elections.

Sec. 4. This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

S. B. 943

CHAPTER 780

AN ACT TO REQUIRE THAT CERTAIN PROCEDURES BE FOLLOWED BEFORE REDUCING THE TERM OF EMPLOYMENT OF OCCUPATIONAL EDUCATION TEACHERS.

The General Assembly of North Carolina enacts:

Section 1. Article 17 of Chapter 115 of the General Statutes is hereby amended by adding a new section which shall read as follows:

“§ 115-142.3. The following procedures shall be complied with before any city or county board of education may take any action reducing the term of employment of any occupational education teacher:

(a) At least 60 calendar days prior to the beginning date of any reduction in the term of employment, the board shall give written notice to the occupational education teacher of its intentions and reasons for the proposed action.

(b) Within 15 calendar days of receipt of this written notice, the occupational education teacher may request a hearing before the board. The board shall conduct such hearing within 20 calendar days of receipt of the request with the occupational education teacher being given at least 10 calendar days' notice of the date of hearing.

(c) At the hearing, the occupational education teacher may be accompanied by a representative of his choice and may present such witnesses and other evidence as he may wish in order to show that a reduction in his term of employment is unjustified or arbitrary.

(d) After the hearing, the board shall make its decision and notify the occupational education teacher in writing.

(e) Any occupational education teacher whose term of employment has been reduced by the board pursuant to this section shall have the right to appeal from the decision of the board to the superior court for the judicial district in which the occupational education teacher is employed. The appeal shall be filed within a period of 30 calendar days after notification of the decision of the board.

The board shall advise the Division of Occupational Education of the Department of Public Instruction of its intention to reduce the term of employment of an occupational education teacher at least 90 calendar days prior to the effective date of reduction in his term of employment.”

Sec. 2. This act shall become effective January 1, 1974.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

S. B. 813

CHAPTER 781

AN ACT TO CHANGE THE MANNER OF APPLICATION OF MENTALLY RETARDED SERVICES' FUNDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 122-71.5 as the same appears in the 1971 Cumulative Supplement to Volume 3B of the General Statutes is hereby amended by striking the words “below the age of six years” after the word “children” and before the word “in” in line four thereof.

Sec. 2. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. B. 697

CHAPTER 782

AN ACT TO AMEND G.S. 115-142, THE TEACHER EMPLOYMENT AND DISMISSAL ACT, IN ORDER TO MAKE IT MORE WORKABLE AND TO ELIMINATE AMBIGUITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115-142(a)(1) is hereby rewritten to eliminate the definition of "administrator" and to add a definition of "day" as follows:

"'Day' means any day except Saturday, Sunday, or a legal holiday. In computing any period of time, the day in which notice is received is not counted, but the last day of the period so computed is to be counted."

Sec. 2. G.S. 115-142(a)(3) is hereby rewritten to read as follows:

"'Career teacher' means a teacher who has obtained career status as provided in G.S. 115-142(c)."

Sec. 3. G.S. 115-142(a)(5) is hereby rewritten to read as follows:

"'Demote' means to reduce the compensation of a person who is classified or paid by the State Board of Education as a classroom teacher or to transfer him to a new position carrying a lower salary. The word demote does not include a reduction in compensation that results from the elimination of a special duty, such as the duty of an athletic coach, assistant principal, or a choral director."

Sec. 4. G.S. 115-142(a)(6) is hereby rewritten to read as follows:

"'Probationary teacher' means a certificated person, other than a superintendent, associate superintendent, or assistant superintendent, who has not obtained career-teacher status and whose major responsibility is to teach or to supervise teaching."

Sec. 5. G.S. 115-142(a)(7) is hereby rewritten to eliminate the definition of "substitute teacher" and to add a definition of "supervisor" as follows:

"'Supervisor' means a person paid on the supervisor's salary schedule who supervises the instructional program in one or more schools and is under the immediate supervision of the superintendent or his designee."

Sec. 6. G.S. 115-142(a)(10) is hereby repealed and G.S. 115-142(a)(9) rewritten to read as follows:

"'Teacher' means a person who holds at least a current, not expired, Class A certificate or a regular, not provisional or expired, vocational certificate issued by the State Department of Public Instruction; whose major responsibility is to teach or directly supervise teaching or who is classified by the State Board of Education or is paid as a classroom teacher; and who is employed to fill a full-time, permanent position."

Sec. 7. G.S. 115-142(b) is hereby rewritten to read as follows:

"The superintendent shall maintain in his office a personnel file for each teacher that contains any complaint, commendation, or suggestion for correction or improvement about the teacher. The complaint, commendation, or suggestion shall be signed by the person who makes it and shall be placed in the teacher's file only after five (5) days' notice to the teacher. Any denial or explanation relating to such complaint, commendation, or suggestion that the teacher desires to make shall be placed in the file.

The personnel file shall be open for the teacher's inspection at all reasonable times but shall be open to other persons only in accordance with such rules and regulations as the board adopts. Any pre-employment data or other information

obtained about a teacher before his employment by the board may be kept in a file separate from his personnel file and need not be made available to him. No data placed in the pre-employment file may be introduced as evidence at a hearing on the dismissal or demotion of a teacher."

Sec. 8. G.S. 115-142(c) is hereby rewritten to read as follows:

"(1) Status of teachers employed on July 1, 1972. No teacher may become a career teacher before July 1, 1973. To be eligible to become a career teacher on July 1, 1973, a teacher must have been employed by a North Carolina school system on July 1, 1972, and, at the end of the 1971-72 school year, have either (1) been employed by that school system (or successor school system if the system has been consolidated) for four consecutive years, or (2) been employed in a North Carolina public school system for five consecutive years. Notwithstanding the requirement that the period of employment must be consecutive, a board may waive this requirement if the teacher has taught in its school system for a total of four years at the end of the 1971-72 school year and if, in the board's opinion, there was good reason why the service was not consecutive. A teacher who satisfies these requirements shall automatically become a career teacher on July 1, 1973, if he taught in that school system during the 1972-73 school year and was reemployed for the 1973-74 school year. All other teachers are probationary teachers.

(2) Normal election of a teacher to career status. When a teacher will have been employed by a North Carolina public school system for three consecutive years, the board, near the end of the third year, shall vote upon his employment for the next school year. The board shall give him written notice of that decision at least 30 days before the end of his third year of employment. If a majority of the board votes to reemploy him, he becomes a career teacher on the first day of the fourth year of employment. If the board votes to reemploy the teacher and thus grant career status at the beginning of the next school year, and if it has notified him of this decision, it may not later rescind that action but must proceed under the provisions of this act for the demotion or discharge of a teacher if it decides to terminate his employment.

If a majority of the board votes against reemploying the teacher, he shall not teach beyond the current school term. If the board fails to vote on granting career status but reemploys him for the next year, he automatically becomes a career teacher on the first day of the fourth year of employment.

A year, for purposes of computing time as a probationary teacher, shall be not less than 120 work days performed as a full-time, permanent teacher in a normal school year.

(3) Employment of a career teacher. A teacher who has obtained career status in another North Carolina public school system, need not serve another probationary period of more than two years, and may, at the option of the board, be employed immediately as a career teacher. In any event, if the teacher is reemployed for a third consecutive year, he shall automatically become a career teacher. A teacher with career status who resigns and within five years seeks to be reemployed by the same school system need not serve another probationary period of more than one year and may, at the option of the board, be reemployed as a career teacher. In any event, if he is reemployed for a second consecutive year, he shall automatically become a career teacher.

(4) Ineligible for career status. No superintendent, associate superintendent, assistant superintendent or other school employee who is not a teacher as

defined by G.S. 115-142(a)(9) is eligible to obtain career status or continue in a career status if he no longer performs the responsibilities of a teacher as defined in G.S. 115-142(a)(9).

(5) Leaves of absence. A career teacher who has been granted a leave of absence by a board shall maintain his career status if he returns to his teaching position at the end of the authorized leave."

Sec. 9. G.S. 115-142(d)(2) is rewritten to read as follows:

"A career teacher who has performed the duties of a principal or supervisor in a particular position in the school system for three consecutive years shall not be transferred from that position to a lower-paying administrative position or to a lower-paying nonadministrative position without his consent except for the reasons given in G.S. 115-142(e) and in accordance with the procedure for the dismissal of a career teacher set out in this act."

Sec. 10. G.S. 115-142(e)(1) is hereby amended by adding the words "or employed on a part-time basis" on line 1 after the word "demoted" and before the word "except".

Sec. 11. G.S. 115-142(e)(1)f. is hereby rewritten to read as follows:

"f. Habitual or excessive use of alcohol or nonmedical use of a controlled substance as defined in Article 5 of Chapter 90 of the General Statutes."

Sec. 12. G.S. 115-142(e)(1) is hereby amended by adding the following subsection:

"m. Failure to maintain one's certificate in a current status."

Sec. 13. G.S. 115-142(e)(2) is hereby amended by adding at the end of the last sentence:

"However, if the school system offers the dismissed teacher a position for which he is certified and he refuses it, his name shall be removed from the priority list."

Sec. 14. G.S. 115-142(f) is hereby rewritten to read as follows:

"(f) Suspension without pay. If a board believes that cause exists for dismissing a probationary or career teacher for any reason specified in G.S. 115-142(e)(1)(b) through G.S. 115-142(e)(1)(h) and that immediate suspension of the teacher is necessary, the board may by resolution suspend him without pay and without giving notice and a hearing.

If a board thinks a probationary or career teacher's performance is so inadequate that an emergency situation exists requiring the teacher to be removed immediately from his duties, the board shall give him written notice that it plans to suspend him and the reasons for the planned action. Not less than two or more than five days after the teacher receives the board's notice, the board shall hold a hearing on whether it should suspend the teacher. The hearing procedures provided in G.S. 115-142(j) shall be followed and all teacher evaluations and other information in the teacher's personnel file shall be made available to the board. If the board finds it necessary to suspend the teacher, it may by resolution suspend him without pay.

Within five days after a suspension under this section, the superintendent shall initiate a dismissal as provided in this act. If it is finally determined that no grounds for dismissal exist, the teacher shall be reinstated immediately and shall be paid for the period of suspension."

Sec. 15. G.S. 115-142(g)(3) is hereby amended by adding the following sentence at the end:

"The compensation shall be paid by the State Board of Education."

Sec. 16. G.S. 115-142(h)(1) is hereby rewritten as follows:

“A career teacher may not be dismissed, demoted, or reduced to part-time employment except upon the superintendent’s recommendation.”

Sec. 17. G.S. 115-142(h)(2) is hereby amended by striking the words, “At least 20 days”, as they appear at the beginning of the sentence. G.S. 115-142(h)(2) is further amended by adding the following sentence at the end: “If the teacher does not request a panel hearing within the 15 days provided, the superintendent may submit his recommendation to the board.”

Sec. 18. The time requirements provided in the dismissal procedure are reduced by the following amendments:

(1) G.S. 115-142(h)(4) is hereby amended by reducing from “10” to “7” days the amount of time that the State Superintendent of Public Instruction has to designate a panel of the Professional Review Committee.

(2) G.S. 115-142(i)(4) is hereby amended by reducing from “30” to “20” days the amount of time the review panel has to conduct its investigation.

(3) G.S. 115-142(i)(4) is hereby amended on the last line by reducing from “60” to “10” days the extension permitted the panel to conduct its investigation.

(4) G.S. 115-142(i)(5) is hereby amended on line 1 by reducing from “30” to “5” days the amount of time the superintendent has after receiving the panel report to submit his recommendation of dismissal or demotion to the board of education.

Sec. 19. G.S. 115-142(i)(1) is hereby amended on line 2 by changing “40” to “30”, thereby reducing the number of Professional Review Committee members that the teacher and superintendent may eliminate from consideration for appointment to the review panel.

Sec. 20. G.S. 115-142(h)(3) is hereby amended by striking the first sentence and replacing it with the following two sentences:

“Within the 15-day period after receipt of the notice, the career teacher may file with the superintendent a written request for either (1) a review of the superintendent’s proposed recommendation by a panel of the Professional Review Committee or (2) a hearing before the board within 10 days. If the teacher requests an immediate hearing before the board, he forfeits his right to a hearing by a panel of the Professional Review Committee.”

Sec. 21. G.S. 115-142(i)(4) is hereby amended by adding at the end of the first sentence after the word “superintendent” the words “and teacher.”

Sec. 22. G.S. 115-142(i)(5) is hereby amended on line 2 by adding to the first sentence, after the word “board”, the words, “with a copy to the teacher,”.

Sec. 23. G.S. 115-142(i)(6) is hereby rewritten to read as follows:

“Within seven days after receiving the superintendent’s recommendation and before taking any formal action, the board shall notify the teacher by certified mail that it has received the superintendent’s recommendation and the report of the panel. The notice shall state that if the teacher requests a hearing before the board on the superintendent’s recommendation, a hearing will be provided at the time and place specified in the notice. The time specified shall not be sooner than 7 or later than 20 days after the teacher received the notice. The notice shall further state that if the board does not receive the teacher’s written notification that he wants a hearing before the board, such notice to be given within 5 days after he has received the board’s notice, it may by resolution

dismiss the teacher. If the teacher can show that his request for a hearing was postmarked within the time provided, his right to a hearing is not forfeited."

Sec. 24. G.S. 115-142(j)(1) is amended by putting a period after the word "private" and striking the words "unless the career teacher or the superintendent requests a public hearing."

Sec. 25. G.S. 115-142(j)(3) is hereby amended on line 1 by striking the words "career teacher" and inserting in their place "teacher and superintendent".

Sec. 26. G.S. 115-142(k)(1) is hereby amended on line 4 by adding after the word "teacher" the words "or the superintendent".

Sec. 27. G.S. 115-142(1)(3) is hereby amended by rewriting the first sentence to read as follows:

"At the request of either the superintendent or the teacher, the board shall issue subpoenas requiring the production of papers or records or the attendance of persons residing within the State before the board."

Sec. 28. G.S. 115-142(1)(3) is hereby amended by rewriting the last sentence as follows:

"The board shall pay witness fees for up to five witnesses subpoenaed on behalf of the teacher, except that it shall not pay for any witness who resides within the county in which the dismissal originates or who is an employee of the board. However, no employee of the board shall suffer any loss of compensation because he has been subpoenaed to testify at the hearing. These payments shall be as provided for witnesses in G.S. 7A-314."

Sec. 29. G.S. 115-142(1)(5) is hereby rewritten to read as follows:

"Within five days following the hearing, the board shall send a written copy of its findings and order to the teacher and superintendent. The Board shall provide for making a transcript of its hearing. If the teacher contemplates an appeal to a court of law, he may request and shall receive at no charge a transcript of the proceedings."

Sec. 30. G.S. 115-142(o) is hereby rewritten as follows:

"A teacher, career or probationary, should not resign without the consent of the superintendent unless he has given at least 30 days' notice. If the teacher does resign without giving at least 30 days' notice, the board may request that the State Board of Education revoke the teacher's certificate for the remainder of that school year. A copy of the request shall be placed in the teacher's personnel file.

A probationary teacher whose contract will not be renewed for the next school year shall be notified of this fact not less than 30 days before the end of his employment period."

Sec. 31. G.S. 115-45 is hereby amended by repealing the second and third paragraphs.

Sec. 32. This act shall be in full force and effect upon its ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. B. 1208

CHAPTER 783

AN ACT TO MODIFY THE DEFINITIONS OF PUBLIC SERVICE COMPANIES SUBJECT TO APPRAISAL BY THE STATE BOARD OF ASSESSMENT.

The General Assembly of North Carolina enacts:

Section 1. Subdivision (9) of G.S. 105-333 is rewritten to read as follows:

"(9) 'Locally assigned rolling stock' means motor vehicles (other than passenger cars and service vehicles) which are owned or leased by a motor freight carrier company and specifically assigned to a terminal or other premises and regularly used at the premises to which assigned for the pick up and delivery of local freight."

Sec. 2. Subdivision (10) of G.S. 105-333 is rewritten to read as follows:

"(10) 'Motor freight carrier company' means a public service company engaged in the business of transporting property by motor vehicle for hire over the public highways of this State, whether the transportation be within, into, or from this State. With respect to intrastate carriers, this definition shall apply only to those motor freight carriers which are engaged in the business of transporting property by tractor trailer to or from two or more terminals owned or leased by the carrier in this State, whether or not the carrier is regulated by the North Carolina Utilities Commission."

Sec. 3. Subdivision (14) of G.S. 105-333 is rewritten to read as follows:

"(14) 'Public service company' means railroad company, pipeline company, gas company, electric power company, electric membership corporation, telephone company, telegraph company, bus line company, motor freight carrier company, airline company, and any other company performing a public service that is regulated by the Interstate Commerce Commission, the Federal Power Commission, the Federal Communications Commission, the Federal Aviation Agency, or the North Carolina Utilities Commission except a water company, a radio common carrier company as defined in G.S. 62-119(3), a cable television company, or a radio or television broadcasting company. (For purposes of appraisal under this Article, this definition shall include a pipeline company whether or not it performs a public service and whether or not it is regulated by one of the agencies named in the preceding sentence.)"

Sec. 4. Subdivision (16) of G.S. 105-333 is rewritten to read as follows:

"(16) 'Rolling stock' means buses, trucks, tractor trucks, trailers, semitrailers, combinations thereof, and other motor vehicles (except passenger cars and service vehicles), and railroad locomotives and cars, which are propelled by mechanical or electrical power and used upon the highways or, in the case of railroads, upon tracks."

Sec. 5. Subdivisions (6) and (20) of G.S. 105-333 are repealed, and the remaining subdivisions, as amended by this act, are renumbered accordingly.

Sec. 6. Subdivision (b)(1) of G.S. 105-335 is rewritten to read as follows:

"(1) System Property. Each year, as of January 1, the State Board of Assessment shall appraise at its true value (as defined in G.S. 105-283) the system property used by each public service company both inside and outside this State. Property leased by a public service company shall be included in appraising the value of its system property if necessary to ascertain the true value of the company's system property."

Sec. 7. This act shall become effective on January 1, 1974.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. B. 723**CHAPTER 784**

AN ACT TO AMEND THE CHARTER OF THE CITY OF GREENSBORO, AS REVISED AND REORGANIZED BY CHAPTER 1137 OF THE SESSION LAWS OF 1959 TO AUTHORIZE THE CITY OF GREENSBORO TO USE THE PROCEDURES OF ARTICLE 9 OF CHAPTER 136 OF THE GENERAL STATUTES RELATING TO CONDEMNATION BY THE STATE HIGHWAY COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Chapter VI, Subchapter B, Article 1, of the Charter of the City of Greensboro, as set forth in Chapter 1137 of the Session Laws of 1959, is amended by rewriting Section 6.118 to read as follows:

"Section 6.118. Alternative condemnation procedures. In exercising the power of eminent domain for any public purpose, if negotiations for the purchase of land or rights in land are unsuccessful, the City may in its discretion use the procedures of Article 2 of Chapter 40 of the General Statutes, or Article 9 of Chapter 136 of the General Statutes, or the procedures of any other general law, charter, or local act applicable to the City. As contained in the General Statutes above mentioned, wherever the words 'Highway Commission' or 'State Highway Commission' appear they shall be deemed to include 'city' or 'council' and wherever the words 'Administrator', 'Administrator of Highways', 'Administrator of the Highway Commission', 'chairman', or 'Chairman of the Highway Commission' appear they shall be deemed to include 'city clerk'."

Provided, however, that the provisions of this section shall not apply with regard to properties owned by public service corporations as defined in G.S. 160A-243(c) unless the exercise of such power of eminent domain is either consented to by the owner of the property to be acquired by the city or, otherwise, first adjudicated after notice and a hearing that such acquisition will not prevent or unreasonably impair the continued devotion to the public use of such properties and the operation by such public service corporation.

Sec. 2. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. B. 1253**CHAPTER 785**

AN ACT TO AMEND ARTICLE 9 OF CHAPTER 66 OF THE GENERAL STATUTES TO PROVIDE FOR THE REGULATION OF CERTAIN BILL COLLECTION PRACTICES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 66-42 is hereby amended by rewriting this section to read as follows:

"§ 66-42. *Definition of delinquent collection agency and collection agency business.*—'Collection agency' means and includes all persons, firms, corporations, and associations directly or indirectly engaged in soliciting, from more than one person, firm, corporation or association, delinquent claims of any

kind owed or due or asserted to be owed or due the solicited person, firm, corporation or association, and all persons, firms, corporations and associations directly or indirectly engaged in the asserting, enforcing or prosecuting those claims.

'Collection agency' shall include:

- (1) Any person, firm, corporation or association who shall procure a listing of delinquent debtors from any creditor and who shall sell such listing or otherwise receive any fee or benefit from collections made on such listing; and
- (2) Any person, firm, corporation or association which attempts to or does transfer or sell to any person, firm, corporation or association not holding the permit prescribed by this Article any system or series of letters or forms for use in the collection of delinquent accounts or claims which by direct assertion or by implication indicate that the claim or account is being asserted or collected by any person, firm, corporation, or association other than the creditor or owner of the claim or demand; provided that no bond shall be required of any such collection agency if it does not collect any money from the debtor nor hold itself out as being authorized to receive payment of all or any part of such debt.

'Collection agency' does not mean or include:

- (1) Regular employees of a single creditor,
- (2) Banks, trust companies, or bank owned, controlled or related firms, corporations or associations engaged in accounting, bookkeeping or data processing services where a primary component of such services is the rendering of statements of accounts and bookkeeping services for creditors,
- (3) Mortgage banking companies,
- (4) Savings and loan associations,
- (5) Building and loan associations,
- (6) Duly licensed real estate brokers and agents when the claims or accounts being handled by the broker or agent are related to or are in connection with the broker's or agent's regular real estate business,
- (7) Express and telegraph companies subject to public regulation and supervision,
- (8) Attorneys at law handling claims and collections in their own name and not operating a collection agency under the management of a layman, or
- (9) Any person, firm, corporation or association handling claims, accounts or collections under an order or orders of any court.
- (10) A person, firm, corporation or association which, for valuable consideration purchases accounts, claims or demands or demands of another, which such accounts, claims, or demands of another are not delinquent at the time of such purchase, and then, in its own name, proceeds to assert or collect the accounts, claims or demands.
- (11) 'Collection agency' shall not include any person, firm, corporation or association attempting to collect or collecting claims of a business or businesses owned wholly or substantially by the same person or persons operating such collection agency."

Sec. 2. This act shall be effective on July 1, 1973.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. B. 1302

CHAPTER 786

AN ACT AUTHORIZING COUNTIES AND CITIES, SUBJECT TO AN ELECTION, TO COVENANT WITH, OR ENTER INTO AGREEMENTS WITH MUNICIPALITIES AS DEFINED IN THE LOCAL GOVERNMENT REVENUE BOND ACT FOR THE BENEFIT OF THE HOLDERS OF REVENUE BONDS, SUCH COVENANTS OR AGREEMENTS PROVIDING FOR THE LEVY OF TAXES FOR SUPPLEMENTING REVENUE BOND PROJECTS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 780 of the Session Laws of 1971, as amended, is hereby further amended by inserting the following new section, designated Section 159-96.1, in Article 5 of Chapter 159 of the General Statutes of North Carolina, as set forth in said Chapter 780, as amended:

“§ 159-96.1. *Taxes for supplementing revenue bond projects.*—(a) For the purpose of supplementing the revenues of a revenue bond project, as defined in this section, any county or city may covenant with, or may enter into an agreement with a municipality for the benefit of the holders of revenue bonds of the issuing municipality issued pursuant to this Article, whereby such county or city agrees to:

- (i) levy for the life of all revenue bonds issued in connection with the revenue bond project an annual property tax not in excess of the rate set forth in the question submitted to the voters as hereinafter provided, such levy to be based upon the operating supplement requirement, as defined in this section, or
- (ii) levy for the life of the revenue bonds in respect of which such tax is being levied an annual property tax not in excess of the rate required to pay the principal of and the interest on the aggregate principal amount of revenue bonds set forth in the question submitted to the voters as hereinafter provided, such levy to be based upon the debt service reserve supplement requirement, as defined in this section.

When any such covenant has been made or any such agreement has been entered into, the issuing municipality shall determine, and, in those instances in which the issuing municipality is not also the taxing county or city, the issuing municipality shall certify to the governing board of the taxing county or city, by not later than June 1 of each fiscal year the amount required, determined as hereinafter provided, to be raised by taxation by such county or city in the next fiscal year. The county or city is obligated to levy such tax only to the extent that an operating supplement requirement or a debt service reserve supplement requirement shall occur during the fiscal year preceding the fiscal year in which the tax is to be levied. In no event shall the county or city be required to levy a tax in excess of the rate required to be levied in accordance with the approval of the voters as provided in subsection (c). When any such tax is to be levied, the county or city shall include in its budget ordinance an appropriation to the issuing municipality or the appropriate fund, as the case may be, equal to the estimated yield of the tax levy, and shall pay such appropriation to the issuing municipality or transfer moneys to the appropriate fund in equal monthly installments unless another mutually satisfactory schedule of payments is agreed upon.

(b) A covenant made, or the pledge of an agreement entered into, by a county or city pursuant to this section shall be effected by the provisions of the revenue bond order or the trust agreement securing revenue bonds of the issuing municipality and where the issuing municipality is not also the taxing county or city a resolution of the county or city approving the appropriate provisions of the bond order or trust agreement relating to the pledge of the tax. If the taxing county or city is not the issuing municipality, it shall file an application for approval of the resolution with the Secretary of the Commission in the manner provided in G.S. 159-149, and the Commission shall determine whether to approve the application as provided by G.S. 159-151 and G.S. 159-152; provided, however, that G.S. 159-148 and G.S. 159-150 shall have no application to this section.

(c) A covenant made, or agreement entered into, by a county or city pursuant to this section shall take effect only if approved by the affirmative vote of a majority of those who vote thereon in a referendum held in the taxing county or city. The referendum shall be called and held as provided in G.S. 159-61, except that

(1) the ballot proposition shall be in substantially one of the following forms:

Operating Supplement Requirement:

'Shall the (order or agreement) binding the (taxing county or city) to levy annually a tax on property not in excess of cents on the one hundred dollars value of property subject to taxation for the purpose of supplementing the revenues of (revenue bond project) in instances where the gross revenues of the project are estimated to be less than the estimated total costs of the (i) current operating expenses of the project, (ii) amount required to maintain the debt service reserve by repaying any withdrawals therefrom in respect of all outstanding bonds issued in connection with the project and (iii) debt service on all outstanding bonds issued in connection with the project, all as defined in such (order or agreement), the proceeds of such tax to be used for the payment of the current operating expenses of the project so long as any revenue bonds issued therefor remain outstanding and unpaid, be approved?

☐ Yes

☐ No'

Debt Service Reserve Supplement Requirement :

'Shall the (order or agreement) binding the (taxing county or city) to levy annually, without limitation as to rate or amount, a tax on property subject to taxation for the purpose of supplementing the revenues of (revenue bond project) for maintaining the debt service reserve required by said (order or agreement) in connection with the issuance of not in excess of \$ revenue bonds of (the issuing municipality), so long as any of such revenue bonds remain outstanding and unpaid, be approved?

☐ Yes

☐ No'

and

(2) the published statement of result shall have the following statement appended:

'Any action or proceeding challenging the regularity or validity of this supplemental tax referendum must be begun within 30 days after (date of publication).

(title of governing board)'.

(d) Any action or proceeding in any court to set aside a supplemental tax referendum held under this section, or to obtain any other relief, upon the ground that the referendum is invalid or was irregularly conducted, must be begun within 30 days after the publication of the statement of the result of the referendum. After the expiration of this period of limitation, no right of action or defense based upon the invalidity of or any irregularity in the referendum shall be asserted, nor shall the validity of the referendum be open to question in any court upon any ground whatever, except in an action or proceeding begun within the period of limitation prescribed in this subsection.

(e) An order or agreement submitted to and approved by the voters pursuant to this section may be repealed at any time before bonds are issued pursuant thereto.

(f) In instances where the taxing county or city is not the issuing municipality, such county or city may levy taxes as provided for in this section in respect of a revenue bond project located outside its corporate limits provided that such county or city is entitled by law to appoint one or more members of the governing body of such municipality.

(g) For the purposes of this section,

(i) a 'revenue bond project' is limited, notwithstanding the provisions of G.S. 159-81, to (a) aeronautical facilities, including but not limited to airports, terminals and hangars, and (b) hospitals and other health-related facilities within the meaning of said G.S. 159-81,

(ii) an 'operating supplement requirement' occurs when, as set forth in the budget prepared by the issuing municipality in respect of the revenue bond project, the estimated cost in the next succeeding fiscal year of the (a) current operating expenses of the revenue bond project, (b) amount required to maintain the debt service reserve by repaying any withdrawals therefrom in respect of all outstanding bonds issued in connection with the revenue bond project, and (c) debt service on all outstanding bonds issued in connection with the revenue bond project, are in excess of the pledged revenues of the revenue bond project for such fiscal year as estimated by the issuing municipality, excluding taxes levied pursuant to this section; provided, however, that the amount of the operating supplement requirement shall not exceed the total amount of the current operating expenses of the revenue bond project mentioned in clause (a) above, and

(iii) a 'debt service reserve supplement requirement' occurs when there have been withdrawn from the debt service reserve any moneys for the purpose of paying debt service on the bonds in respect of which the supplemental tax has been authorized by the voters; provided, however, that the amount of the debt service reserve supplement requirement shall not exceed the amount so withdrawn.

(h) Any covenant or agreement of a county or city made pursuant to this section, and the obligations assumed thereby, shall be excludable from the gross debt of the county or city for purposes of the statement of debt mentioned in G.S. 159-55."

Sec. 2. This act shall become effective on July 1, 1973.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. B. 1307**CHAPTER 787**

AN ACT TO AMEND CHAPTER 105, SECTION 312, OF THE NORTH CAROLINA GENERAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. North Carolina General Statutes, Chapter 105, Section 312, is amended as follows:

a. The first sentence of subsection (d) is deleted and the following is inserted in lieu thereof:

“Subject to the provisions of subsection (c), above, and the presumptions established by subsection (f), below, discovered property shall be listed in the name of the person required by G.S. 105-302 or G.S. 105-306, and the discovery shall be deemed to be made at the time such property is listed as prescribed in this subsection (d).”

b. The fourth sentence of subsection (d) is deleted and the following inserted in lieu thereof:

“Both the listing and the appraisal shall be subject to the approval of the Board of Equalization and Review, or, if that board has adjourned, the approval of the Board of County Commissioners, subject to the right of appeal to the State Board of Assessment under the provisions of G.S. 105-324; provided, nothing herein shall prevent valuation of such property by agreement between the supervisor and taxpayer without action by the Board of Equalization and Review or the Board of Commissioners.”

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. B. 1308**CHAPTER 788**

AN ACT TO AMEND CHAPTER 105, SECTION 374, OF THE NORTH CAROLINA GENERAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. Subsection (k) of the North Carolina General Statutes, Chapter 105, Section 374, is amended by deleting the last paragraph and inserting in lieu thereof the following:

“In all cases in which no answer is filed within the time allowed by law, and in cases in which answers filed do not seek to prevent sale of said property, the clerk of the superior court may render the judgment, subject to appeal in the same manner as appeals are taken from other judgments of the clerk”.

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall be in full force and effect from and after its ratification, and shall apply to pending litigation as of the effective date of ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. B. 1309

CHAPTER 789

AN ACT TO AMEND CHAPTER 105, SECTION 303, OF THE NORTH CAROLINA GENERAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. Subsection (a)(1)b of the North Carolina General Statutes, Chapter 105, Section 303, is deleted and the following is inserted in lieu thereof: "The name and address of the person to whom the property is being conveyed".

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

S. B. 426

CHAPTER 790

AN ACT TO CLASSIFY FOREST GROWTH AND EXCLUDE IT FROM THE PROPERTY TAX BASE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-275 is amended by adding a new subdivision thereto to read as follows:

"(6) Upon the date on which each county's next general reappraisal of real property under the provisions of G.S. 105-286(a) becomes effective, standing timber, pulpwood, seedlings, saplings, and other forest growth. (The purposes of this classification is to encourage proper forest management practices and to develop and maintain the forest resources of the State)."

Sec. 2. Sub-subdivision e. of G.S. 105-287(b)(2) is repealed and the remaining paragraphs of that subdivision are redesignated accordingly.

Sec. 3. Section 1 of this act shall become effective as of January 1, 1974. Section 2 of this act shall become effective with respect to each county as of the date on which its next general reappraisal of real property under the provisions of G.S. 105-286(a) becomes effective.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

S. B. 851

CHAPTER 791**AN ACT TO ABOLISH THE RURAL POLICE DEPARTMENT OF GASTON COUNTY.**

The General Assembly of North Carolina enacts:

Section 1. The Rural Police Department of Gaston County is hereby abolished.

Sec. 2. Chapter 16, Session Laws of 1957, Chapter 255, Session Laws of 1971, are hereby repealed, and all laws and clauses of laws in conflict with this act are repealed.

Sec. 3. This act shall become effective upon a favorable vote of the Board of Commissioners of Gaston County on the issue of abolition of the Rural Police Department of Gaston County.

In the General Assembly read three times and ratified, this the 24th day of May, 1973.

H. B. 1247

CHAPTER 792**AN ACT TO PROVIDE THAT THE NUMBER OF COMMISSIONERS OF THE HOSPITAL AUTHORITY MAY BE INCREASED UPON A FINDING THAT SUCH IS IN THE PUBLIC INTEREST.**

The General Assembly of North Carolina enacts:

Section 1. The second paragraph of G.S. 131-94 is amended and rewritten as follows:

"One third of the commissioners who are first appointed shall be designated by the mayor, or the chairman of the board of county commissioners, to serve for terms of one year, one third to serve for terms of two years, and one third to serve for terms of three years respectively from the date of their appointment. Thereafter, the term of office shall be three years. A commissioner shall hold office until his successor has been appointed and has qualified. Vacancies shall be filled for the unexpired term. In the event of an increase in the number of commissioners, or in the event of a vacancy or vacancies in the membership of the board by expiration of term of office or otherwise, the remaining members of the board shall submit to the mayor, or the chairman of the board of county commissioners, nominations for appointments. The mayor, or the chairman of the board of county commissioners shall appoint within a reasonable period of time a person or persons to fill the vacancy or vacancies created by an increase in the number of commissioners or a vacancy or vacancies in the membership of the board by expiration of a term of office or otherwise, but may successively require any number of additional nominations, and shall have power to appoint any person so nominated. All such vacancies shall be filled from such nominations. The commissioners, upon a finding that it is in the public interest, may adopt a resolution increasing the membership of the board by a fixed number and submit the certified resolution and nominations for appointments to the mayor or the chairman of the board of county commissioners for appointment of the new commissioners from the persons so nominated or from among such additional nominations as the mayor or the chairman of the board of county commissioners may require to be submitted from the commissioners. A majority of the commissioners shall constitute a quorum. The mayor shall file with the city clerk, or the chairman of the board of county commissioners shall

file with the county clerk a certificate of the appointment or reappointment of any commissioner and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner. A commissioner shall receive no compensation for his services but he shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of his duties."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of May, 1973.

H. B. 913

CHAPTER 793

AN ACT TO REVISE PORTIONS OF CHAPTER 163 OF THE GENERAL STATUTES, ELECTIONS AND ELECTION LAWS, DELETE OBSOLETE PROVISIONS THEREOF, AND MAKE TECHNICAL CHANGES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-2 is repealed and rewritten to read as follows:

"§ 163-2. *Hours of primaries and elections.*—In all primaries, general elections, special elections, and referenda held in this State, including those held in and for municipalities and special districts, the polls shall be opened at 6:30 a.m., and shall be closed at 7:30 p.m.: Provided, however, that at all voting places at which voting machines are used the responsible county board of elections may permit the polls to remain open until 8:30 p.m."

Sec. 2. G.S. 163-22 is amended as follows:

a. By adding "and municipal" following "county" and before "boards of elections" in subsection (b).

b. By adding "and municipal elections board members" after "them" in line 2 of subsection (c); by adding "and municipal" after "county" and before "boards" in all places where those words appear in the second, third, fourth and fifth sentences of subsection (c); and by adding a new sentence to the end of subsection (c) as follows: "When any municipal board member shall be removed by the State Board of Elections, the vacancy occurring shall be filled by the city council of the city appointing members of that board."

c. By adding "and municipality and special district" after "county" in line 3 of subsection (d).

d. By adding "and municipal" after "county" in line 4 of subsection (e).

e. By adding "and municipal" after "county" in line 1 of subsection (f).

f. By adding thereto a new subsection (j), to read as follows:

"(j) Notwithstanding the provisions of any other section of this Chapter, the State Board of Elections is empowered to have access to any ballot boxes and their contents, any voting machines and their contents, any registration records, pollbooks, voter authorization cards or voter lists, any lists of absentee voters, any lists of presidential registrants under the Voting Rights Act of 1965 as amended, and any other voting equipment or similar records, books or lists in any precinct, county, municipality or electoral district over whose elections it has jurisdiction or for whose elections it has responsibility."

Sec. 3. G.S. 163-20 is repealed and rewritten to read as follows:

"§ 163-20. *Meetings of Board; quorum; minutes.*—(a) Call of meeting. The State Board of Elections shall meet at the call of the chairman whenever necessary to discharge the duties and functions imposed upon it by this Chapter.

The chairman shall call a meeting of the Board upon the written application or applications of any two members thereof. If there is no chairman, or if the chairman does not call a meeting within three days after receiving a written request or requests from two members, any three members of the Board shall have power to call a meeting of the Board, and any duties imposed or powers conferred on the Board by this Chapter may be performed or exercised at that meeting, although the time for performing or exercising the same prescribed by this Chapter may have expired.

(b) Place of meeting. Except as provided in subsection (c), below, the State Board of Elections shall meet in its offices in the City of Raleigh, or at another place in Raleigh to be designated by the chairman. However, subject to the limitation imposed by subsection (c), below, upon the prior written request of any four members, the State Board of Elections shall meet at any other place in the State designated by the three members.

(c) Meetings to investigate alleged violations of this Chapter. When called upon to investigate or hear sworn alleged violations of this Chapter, the State Board of Elections shall meet and hear the matter in the county in which the violations are alleged to have occurred.

(d) Quorum. A majority of the members constitutes a quorum for the transaction of business by the State Board of Elections. If any member of the Board fails to attend a meeting, and by reason thereof there is no quorum; the members present shall adjourn from day to day for not more than three days, by the end of which time, if there is no quorum, the Governor may summarily remove any member failing to attend and appoint his successor.

(e) Minutes. The State Board of Elections shall keep minutes recording all proceedings and findings at each of its meetings. The minutes shall be recorded in a book which shall be kept in the office of the Board in Raleigh."

Sec. 4. G.S. 163-23 is repealed and rewritten to read as follows:

"§ 163-23. *Powers of chairman in execution of Board duties.*—In the performance of the duties enumerated in this Chapter, the chairman of the State Board of Elections shall have power to administer oaths, issue subpoenas, summon witnesses, and compel the production of papers, books, records and other evidence. Upon the written request or requests of two or more members of the State Board of Elections, he shall issue subpoenas for designated witnesses or identified papers, books, records and other evidence. In the absence of the chairman or upon his refusal to act, any two members of the State Board of Elections may issue subpoenas, summon witnesses, and compel the production of papers, books, records and other evidence. In the absence of the chairman or upon his refusal to act, any member of the Board may administer oaths."

Sec. 5. Chapter 163 of the General Statutes is amended by adding a new section 163-22.1, to read as follows:

"§ 163-22.1. *Power of State Board to order new elections.*—If the State Board of Elections, acting upon the agreement of at least four of its members, and after holding public hearings on election contests, alleged election irregularities or fraud, or violations of election laws, determines that a new primary, general or special election should be held, the Board may order that a new primary, general or special election be held, either statewide, or in any counties, electoral districts, special districts, or municipalities over whose elections it has jurisdiction.

Any new primary, general or special election so ordered shall be conducted under applicable constitutional and statutory authority and shall be supervised by the State Board of Elections and conducted by the appropriate elections officials.

The State Board of Elections has authority to adopt rules and regulations and to issue orders to carry out its authority under this section."

Sec. 6. G.S. 163-25 is amended by adding the words "or municipal" after the word "county" and before "board of elections" and by adding the words "or municipality" before "county" or "counties" where those words are not used as adjectives.

Sec. 7. G.S. 163-30 is amended by adding a new paragraph, at the end thereof to read as follows:

"Each member of the county board of elections shall attend each instructional meeting held pursuant to G.S. 163-46, unless excused for good cause by the chairman of the board, and shall be paid the sum of fifteen dollars (\$15.00) per day for attending each of those meetings."

Sec. 8. G.S. 163-32 is amended by rewriting the first paragraph thereof to read as follows:

"§ 163-32. *Compensation of members of county boards of elections.*—In full compensation for their services, members of the county board of elections (including the chairman) shall be paid by the county twenty-five dollars (\$25.00) per day for the time they are actually engaged in the discharge of their duties, together with reimbursement for expenditures necessary and incidental to the discharge of their duties. The per diem payment shall be prorated if a board member is not actually engaged in the discharge of his duties for a full day. For the purposes of this section, a full day consists of five hours. In its discretion, the board of county commissioners of any county may pay the chairman of the county board of elections compensation in addition to the per diem and expense allowance provided in this paragraph."

Sec. 9. G.S. 163-33(2) and G.S. 163-33(3) are rewritten to read as follows:

"(2) To appoint all registrars, judges, assistants, and other officers of elections, and designate the precinct in which each shall serve; and, after notice and hearing, to remove any registrar, judge of elections, assistant, or other officer of election appointed by it for incompetency, failure to discharge the duties of office, failure to qualify within the time prescribed by law, fraud, or for any other satisfactory cause. In exercising the powers and duties of this subsection, the board may act only when a majority of its members are present at any meeting at which such powers or duties are exercised.

(3) To investigate irregularities, nonperformance of duties, and violations of laws by election officers and other persons, and to report violations to the State Board of Elections. In exercising the powers and duties of this subsection, the Board may act only when a majority of its members are present at any meeting at which such powers or duties are exercised."

Sec. 10. G.S. 163-33(8) is amended by adding the following sentence to the end thereof:

"In addition, the county board of elections shall give notice at least twenty (20) days prior to the date on which the registration books or records are closed that there will be a primary, general or special election, the date on which it will be held, and the hours the voting places will be open for voting in that election.

The notice also shall describe the nature and type of election, and the issues, if any, to be submitted to the voters at that election. Notice shall be given by advertisement at least once weekly during the 20-day period in a newspaper having general circulation in the county and by posting a copy of the notice at the courthouse door. This paragraph shall not apply in the case of bond elections called under the provisions of G. S. 159."

Sec. 11. G.S. 163-33 is amended by adding a new subsection thereto, as subsection (13), to read as follows:

"(13) Notwithstanding the provisions of any other section of this Chapter, to have access to any ballot boxes and their contents, any voting machines and their contents, any registration records, pollbooks, voter authorization cards or voter lists, any lists of absentee voters, any lists of presidential registrants under the Voting Rights Act of 1965 as amended, and any other voting equipment or similar records, books or lists in any precinct or municipality over whose elections it has jurisdiction or for whose elections it has responsibility."

Sec. 12. G.S. 163-42 is amended by adding thereto a new sentence to the first paragraph to read as follows:

"Where there are two precinct assistants in each precinct, each shall be a registered voter of a different political party than the other, and where there are more than two precinct assistants in each precinct, no more than a majority of them shall be registered voters of the same political party; provided, however, that if the requirements of this sentence cannot be met because there is an insufficient number of voters of the political parties available for appointment as precinct assistants, the county board of elections may, notwithstanding this statute, secure bi-partisan representation among precinct assistants."

Sec. 13. G.S. 163-44 is repealed.

Sec. 14. G.S. 163-45 is amended by rewriting the second sentence of the second paragraph to read as follows:

"Individuals authorized to appoint watchers must, prior to 10:00 a.m. on the fifth day prior to any primary or general election, submit in writing to the chairman of the county board of elections two signed copies of a list of watchers appointed by them, designating the precinct for which each watcher is appointed. Before the opening of the voting place on the day of a primary or general election, the chairman shall deliver one copy of the list to the registrar for each affected precinct. He shall retain the other copy. The chairman, or the registrar and judges for each affected precinct, may for good cause reject any appointee and require that another be appointed. The names of any persons appointed in place of those persons rejected shall be furnished in writing to the registrar of each affected precinct no later than the time for opening the voting place on the day of any primary or general election, either by the chairman of the county board of elections or the person making the substitute appointment."

Sec. 15. G.S. 163-46 is amended by adding a new sentence to the end of the first paragraph thereof to read as follows:

"Ballot counters appointed pursuant to G.S. 163-43 shall be paid a minimum of five dollars (\$5.00) for their services on the day of a primary, general or special election."

Sec. 16. G.S. 163-46 is amended by rewriting the fourth paragraph thereof to read as follows:

"In its discretion, the board of county commissioners of any county may provide funds with which the county board of elections may pay registrars,

judges, assistants, and ballot counters in addition to the amounts specified in this section. Watchers shall be paid no compensation for their services."

Sec. 17. G.S. 163-47(a) is amended by adding a new sentence to the end thereof to read as follows:

"On the day of each primary and general and special election, the precinct registrar and judges shall remain at the voting place from the time fixed by law for the commencement of their duties there until they have completed all those duties, and they shall not separate nor shall any one of them leave the voting place except for unavoidable necessity."

Sec. 18. G.S. 163-55 is rewritten as follows:

"§ 163-55. *Qualifications to vote; exclusion from electoral franchise.*—Every person born in the United States, and every person who has been naturalized, and who shall have resided in the State of North Carolina and in the precinct in which he offers to register and vote for 30 days next preceding the ensuing election, shall, if otherwise qualified as prescribed in this Chapter, be qualified to register and vote in the precinct in which he resides: Provided, that removal from one precinct to another in this State shall not operate to deprive any person of the right to vote in the precinct from which he has removed until 30 days after his removal.

The following classes of persons shall not be allowed to register or vote in this State:

(1) Persons under 18 years of age.

(2) Any person adjudged guilty of a felony against this State or the United States, or adjudged guilty of a felony in another state that also would be a felony if it had been committed in this State, unless that person shall be first restored to the rights of citizenship in the manner prescribed by law."

Sec. 19. G.S. 163-56 is repealed.

Sec. 20. G.S. 163-59 is amended by rewriting the last paragraph thereof to read as follows:

"Any person who will become qualified by age or residence to register and vote in the general election or regular municipal election for which the primary is held, even though not so qualified by the date of the primary, shall be entitled to register for the primary and general or regular municipal election prior to the primary and then to vote in the primary after being registered. Such person may register not earlier than 60 days nor later than 21 days prior to the primary."

Sec. 21. G.S. 163-65(b) is repealed and G.S. 163-65(c) is renumbered as G.S. 163-65(b) and rewritten to read as follows:

"(b) Registration records. The applicant's application to register, when approved by the county board of elections, as provided in G.S. 163-67, shall become an official registration certificate. All original registration certificates shall be kept by the county board of elections in a safe place to be provided by the board of county commissioners. The county board of elections shall place an exact duplicate or copy of each original registration certificate in the proper precinct registration book, and certify each such book as containing the registration certificates of all persons entitled to vote in that precinct. Duplicate registration certificates filed in the precinct registration books, when properly certified by the county board of elections, shall be used in the precincts for purposes of all primaries and elections; provided, however, that the original registration certificates shall at all times be the official and final evidence of registration, and the county board of elections shall have the power to correct

the duplicates in the precinct registration books to conform to the original registration certificates at any time, including the day of any primary or election.”

Sec. 22. G.S. 163-66 is rewritten to read as follows:

“§ 163-66. *Custody of registration records and pollbooks; access; obtaining copies.*—In all counties the registration records, books, registration certificates, indexes, and other records of registration and voting shall be and remain in the possession of the county board of elections. The county board of elections shall keep these books in a safe and secure place where they may not be tampered with, stolen, or destroyed. If possible, the board shall keep them in a fireproof vault. The board may exercise supervision and control of these records through its properly designated officers and employees. It shall be the duty of the county board of elections, on application of any candidate, or the county chairman of any political party, or any other person, to furnish a list of the persons registered to vote in the county or in any precinct or precincts therein. No registrar shall furnish lists of registered voters or permit the registration records of his precinct to be copied. The county board of elections shall furnish such lists and, upon request, it may furnish selective lists according to party affiliation, sex, race, date of registration, or any other reasonable category. In all instances, however, the county board of elections shall require persons to whom any list is furnished to make full reimbursement for the expense incurred in preparing it. Notwithstanding the above, however, the chairman of each political party, as defined in G.S. 163-96, shall be entitled biennially, upon request, to one free list of all registered voters in his county showing the name, address, sex, political affiliation and precinct of each registered voter.”

Sec. 23. G.S. 163-67.1 is amended by striking the words “The county boards of elections, whether operating under the provisions of G.S. 163-67(a) or (b)” and by inserting in lieu thereof the words “Each county board of elections”.

Sec. 24. G.S. 163-68 is repealed.

Sec. 25. G.S. 163-69 is rewritten as follows:

“§ 163-69. *Permanent registration.*—The registration certificates shall be a permanent public record of registration and qualification to vote, and they shall not thereafter be cancelled except as otherwise provided in this Chapter. No new registration shall be ordered pursuant to G.S. 163-78 either by precinct, or countywide, unless the permanent registration certificates have been lost or destroyed by theft, fire, or other hazard.

In the event of any division of precincts or changes in precinct boundaries, the board of elections shall not cancel the existing registration or order a new registration, but it shall immediately correct the existing precinct registration certificates to conform to the division or change.

To the end that the permanent registration records shall be purged of the names of registrants who have died or who have become disqualified to vote since registration, the register of deeds of the county shall furnish free of charge, to the county board of elections a certification of all death certificates as soon as they are recorded in his office. Upon receipt of such a certification from the register of deeds, the county board of elections shall cause to be removed from its permanent registration records the name of any person appearing on the register of deeds' death certificate certification.

In addition, beginning in the twelve-month period following the Presidential election in 1972 and thereafter in the period beginning no later than 30 days

after each subsequent Presidential election, the county board of elections shall remove from the permanent registration records the names of all persons who have failed to vote, according to the poll or other record of voting, for a period of four years. Also, at any other time, including the time required by this section for mandatory purging of persons who have not voted for a period of four years, the county board of elections may remove from the permanent registration records the names of all persons who have moved their residence from the county. Prior to removing any person's name from the registration records for failure to vote for four consecutive years or for removal of residence from the county as authorized by this section, the county board of elections shall cause to be mailed to the person affected, at the address shown on the permanent registration records, a notice to show cause why his registration should not be voided. If such a person shall appear and show that his qualifications to register and vote remain as they were when he was first registered, his name shall not be removed from the permanent registration records. Any person whose name has been removed from these records for failure to vote for four consecutive years or for removal of residence from the county shall be permitted to reregister at any time he can demonstrate that he is qualified to register and vote.

Nothing in this section shall prohibit the county board of elections from restoring to the permanent registration records the name of any person upon proof that he is not dead, or that he has voted in the county within the four-year period, or has not removed his residence from the county."

Sec. 26. G.S. 163-70 is rewritten to read as follows:

"§163-70. *Chairman to certify to State Board of Elections number of registered voters in county.*—The chairman of a county or municipal board of elections shall certify to the State Board of Elections the number of registered voters in the county or municipality. The certification shall be made on such forms as the State Board may prescribe and at such times as the State Board may fix."

Sec. 27. G.S. 163-72 is rewritten to read as follows:

"§163-72. *Registration procedure; oath.*—(a) Before questioning any applicant for registration as to his qualifications, the registrar shall administer the following oath to him:

'You swear (or affirm) that the statements and information you shall give me with respect to your identity and qualifications to register to vote shall be the truth, the whole truth, and nothing but the truth, so help you, God.'

After being sworn, the applicant shall state as accurately as possible his name, age, place of birth, place of residence, political party affiliation, if any, under the provisions of G.S. 163-74, the name of any municipalities in which he resides, and any other information which may be material to a determination of his identity and qualification to be admitted to registration. The applicant shall also present to the registrar written or documentary evidence that he is the person he represents himself to be. The registrar, if in doubt as to the right of the applicant to register, may require other evidence satisfactory to him as to the applicant's qualifications.

(b) If the registrar finds the applicant duly qualified and entitled to be registered, he shall administer the following registration oath to him, omitting the words in parentheses if the applicant does not claim residence in any municipality:

'I, _____, do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the State of North Carolina not inconsistent therewith; that I have been or will have been a resident of the State of North Carolina and of this precinct for 30 days by the date of the next primary, special or general election; (that I am a resident of _____ (municipal corporation)); that I am at least 18 years of age or will be by the date of the next general election; and that I have not registered to vote in any other precinct, county, or state, nor will I vote in any other precinct, county, or state, so help me, God.'

If the registrar finds the applicant qualified and entitled to be registered, and if the applicant has taken the oath prescribed in the preceding paragraph, the registrar shall register him by recording his name, age, race, residence, place of birth, municipality in which entitled to vote, and the precinct, municipality, county, or state from which he has removed in the event of a removal, in the appropriate columns of the registration book or other registration record.

The registration book or other record containing the information required by the preceding paragraph shall be evidence against the applicant in any court of law in a proceeding for false or fraudulent registration.

(c) No registered voter shall be required to reregister upon moving from one precinct to another in the same county. In lieu thereof, in accordance with regulations prescribed by the county board of elections, the voter, not less than 21 days before any primary or election in which the removing elector desires to vote, shall file with the county board of elections or with a registrar an affidavit setting forth his former residence, and a statement that all his other qualifications to register and vote remain as they were at the time he was registered. If a registered voter by moving his place of residence from one place to another within the same county thereby affects his eligibility to vote in one or more municipalities, the affidavit also shall state the municipality in which he is now qualified to vote and/or those in which he is no longer qualified to vote. If the county board of elections finds the facts asserted in the affidavit to be true, it shall immediately transfer the voter's registration to the precinct of his new residence or shall correct his registration for municipal elections. Thereafter the voter shall be considered registered and qualified to vote in his new precinct of residence."

Sec. 28. Chapter 163 of the General Statutes is amended by adding a new section, immediately after G.S. 163-72, to read as follows:

"§ 163-72.1. *Cancellation of prior registration.*—(a) After having accepted the application for registration, and after advising the applicant that he is still bound by the oath first administered pursuant to G.S. 163-72, the registrar shall ask the applicant whether he is, at that time, also registered to vote in any other county, municipality or state. If the applicant answers in the affirmative, the registrar shall obtain from him a signed authorization (in triplicate) to cancel all prior registrations. The authorization shall set forth the name under which the person previously was registered, his prior address (including state, county, street address, and precinct, if known), and the name under which he is applying to register. It shall be addressed to the appropriate election officials in the other county, municipality or state and shall request them to cancel his voting registration in that county or state. It also shall direct the county board of elections to which he is currently applying for registration to transmit a signed

copy of the authorization to the appropriate election officials in the other county, municipality or state.

(b) The registrar shall deliver all copies of the signed authorization, together with the person's application for registration, to the county board of elections. If the person, having stated that he is registered in another county or state, refuses to sign the authorization, the registrar shall complete the authorization as completely as possible without obtaining the person's signature and shall transmit it, together with the person's application for registration, to the county board of elections, noting in the appropriate place on the authorization that the person refused to sign it after having stated that he is registered in another county or state.

(c) If the person's application for registration is rejected pursuant to G.S. 163-67, and upon exhaustion of any appeal from rejection that does not result in the granting of registration, the chairman of the county board of elections shall promptly destroy all copies of the person's authorization.

(d) If the person's application for registration is not rejected, the chairman of the county board of elections forthwith shall mail a signed copy of the authorization to the appropriate elections officials in the county, municipality or state where the person previously was registered.

(e) When a county or municipal board of elections in this State receives from another county or municipal board of elections in this State, or from appropriate elections officials of another state or political subdivision in another state, a signed authorization directing the removal of a person's name from the county's or municipality's permanent registration records, the board, ten days after giving written notice of receipt of the authorization to the person at the local address shown in the county's registration records and in the authorization, shall remove the person's name from its registration records.

If within 20 days after giving notice to the person affected the board is notified by the person that he objects to the removal of his name from the records, the chairman of the board shall enter a challenge to the person's qualifications to remain registered or vote. The challenge may be based on the person's removal of residence from the county or municipality or any other sufficient ground for objecting to the right of the person to remain registered or vote, and the challenge shall be heard as provided in G.S. Chapter 163, Article 8.

(f) The board of elections is responsible for the safekeeping of the authorization and any other documents relating to the cancellation of prior registration pursuant to this section. Except as provided in subsection (c), the board shall retain them for a period of at least one year after obtaining the authorization.

(g) The authorization form and the form for written notice of receipt of authorization shall be prescribed or approved by the State Board of Elections. No county or municipality may use any other such forms.

(h) For the purposes of this section, the word 'state' includes the District of Columbia."

Sec. 29. G.S. 163-73 is repealed.

Sec. 30. G.S. 163-74(a) is amended by striking the words "during a regular registration period" after the words "applies for registration" and before the words "prior to any primary or election" in the first paragraph.

Sec. 31. G.S. 163-74(b) is rewritten to read as follows:

“(b) Change of party affiliation. Any registered voter who desires to have his party affiliation changed on the registration records of the county shall, not less than 21 days prior to any primary, file an affidavit with the county board of elections, or a registrar, in accordance with regulations to be adopted by the county board of elections, in the following form:

‘I, _____, do solemnly swear (or affirm) that I desire in good faith to change my party affiliation from the _____ party to the _____ party, and that such change of affiliation be made on the registration records in the manner provided by law, so help me, God.’

Upon receipt of the required oath, the county board of elections shall immediately change the record of the registrant’s party affiliation to conform to that stated in the oath. Thereafter the voter shall be considered registered and qualified to vote in the primaries of the political party which he designated in the oath.”

Sec. 32. G.S. 163-78 is rewritten to read as follows:

“§ 163-78. *New registration; when permanent registration certificates lost or destroyed.*—If all of the permanent registration certificates, required by G.S. 163-65, for any precinct, for the entire county, or for any municipality, are, prior to 30 days preceding any primary, general or special elections, lost or destroyed by theft, fire, or other hazard, the county or municipal board of elections shall promptly provide the precinct registrar of each affected precinct with new loose-leaf registration books and new applications for registration, and shall order a new registration of qualified persons in each affected precinct. The new registration shall be conducted at the times and places in the manner prescribed by G.S. 163-67(a). The board of elections shall give notice that a new registration is in process by advertisement in a newspaper having general circulation in the county and by posting notice at the courthouse door. The notice shall state that a new registration is in process, and the location of the voting place and the name of the registrar in each affected precinct.

If the destruction or mutilation of the precinct registration book occurs less than 30 days before any primary, general, or special election, the board of elections shall, insofar as time will permit, adhere to the provisions of the first paragraph of this section. If the time available makes it impossible to conduct a new registration in the affected precinct, each person presenting himself to vote in the precinct on the day of the ensuing general or special election shall be allowed to cast his ballot after signing and delivering to the registrar an affidavit in the following form:

‘I, _____, do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the State of North Carolina not inconsistent therewith; that I have been a resident of the State of North Carolina and of this precinct or municipality for 30 days; that I am at least 18 years of age; and that I have not registered to vote in any other precinct, county, municipality or state, so help me, God.’

If the ensuing election is a primary rather than a general or special election, the following affidavit shall be used:

‘I, _____, do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the State of North Carolina not inconsistent therewith; that I have been or will have been a resident of the State of North Carolina and of this precinct or municipality for 30 days by the date of the next general election; that I am at

least 18 years of age or will be by the date of the next general election; and that I have not registered to vote in any other precinct, county, municipality, or state, so help me, God.'

Persons permitted to vote under this procedure may be challenged in accordance with the provisions of G.S. 163-87 and G.S. 163-88. The registrar shall deliver all affidavits deposited with him to the board of elections on canvass day. The affidavits shall not be deemed to constitute a new record of registration for the precinct, county or municipality for subsequent primaries and elections."

Sec. 33. G.S. 163-84 is rewritten to read as follows:

"§ 163-84. *Time for challenge other than on day of primary or election.*—The registration records of each county shall be open to inspection by any registered voter of the county, including any registrar or judge of elections, during the normal business hours of the county board of elections on the days when the board's office is open pursuant to G.S. 163-67. At those times the right of any person to register, remain registered, or vote shall be subject to objection and challenge."

Sec. 34. G.S. 163-85 is rewritten to read as follows:

"§ 163-85. *Challenge procedures other than on day of primary or election.*—

(a) Who may challenge. Any registered voter of the county may challenge the right of any person to register, remain registered, or vote in the county.

(b) To whom challenge made; form and nature of challenge. Challenges shall be made to the county board of elections. Each challenge shall be made separately. The burden of proof shall be on the challenger in each case. Each challenge shall be made in writing and, if they are available, shall be made on forms prescribed by the State Board of Elections. Each challenge shall specify the reasons why the challenged voter is not entitled to be or remain registered or to vote. The challenge shall be signed by the challenger and shall set forth the challenger's address.

(c) Recording challenge. When a challenge is made, the official to whom it is made shall write the word 'challenged' in pencil in the registration records beside the name of the person who is challenged. The official then shall prepare a written notice of the challenge, stating succinctly the grounds asserted. As soon as the challenge has been recorded, the official shall also set a time and place at which the merits of the challenge shall be heard. The official shall serve the notice of the time and place of the hearing on the challenged person either in person or by leaving a copy of the notice at the place of residence of the challenged person, as shown on the registration records. The official receiving the challenge shall also furnish the challenger with a copy of the notice either in person or by leaving it at the challenger's place of residence, as shown on the registration records.

(d) If the challenge is based on the challenged person's removal of his permanent residence to another county or state, the official receiving the challenge shall not set a time and place for the hearing to be held before the next ensuing primary or election day, but if the challenged person appears and seeks to vote on that day, the challenge shall be heard and decided as if it were held on that day."

Sec. 35. G.S. 163-86 is rewritten to read as follows:

"§ 163-86. *Challenge hearings other than on day of primary or election.*—(a) Hearing on challenge made prior to primary or election day. A challenge entered

on a day other than the day of a primary or election shall be heard and decided before the date of the next ensuing primary or election. Challenges shall be heard and decided by the county board of elections.

At the time and place set for the hearing on a challenge entered prior to the date of a primary or election, the county board of elections shall explain to the challenged registrant the qualifications for registration and voting in this State. The board chairman, or in his absence the board secretary, shall then administer the following oath to the challenged registrant:

'You swear (or affirm) that the statements and information you shall give in this hearing with respect to your identity and qualifications to be registered and to vote shall be the truth, the whole truth, and nothing but the truth, so help you, God.'

After swearing the challenged registrant, the board shall examine him as to his qualifications to be registered and to vote. If the challenged registrant insists that he is qualified, the board shall tender to him the following oath or affirmation:

'You do solemnly swear (or affirm) that you are a citizen of the United States; that you are at least 18 years of age or will become 18 by the date of the next general election; that you have or will have resided in this State and in the precinct for which registered for 30 days by the date of the next general election; that you are not disqualified from voting by the Constitution and laws of this State; that your name is _____, and that in such name you were duly registered as a voter of _____ precinct; and that you are the person you represent yourself to be; so help you, God.'

If the challenged registrant refuses to take the tendered oath, or submit to the board the affidavit required by subsection (b), below, the challenge shall be sustained and the board shall delete his name from the registration records. If the challenged registrant takes the tendered oath, the board may, nevertheless, sustain the challenge unless it is satisfied that the challenged registrant is a legal voter. If it is satisfied that he is a legal voter, it shall overrule the challenge and erase the word 'challenged' which appears by the voter's name in the registration records.

The board, in conducting hearings on challenges, shall have authority to subpoena any witnesses it may deem appropriate, and administer the necessary oaths or affirmations to all witnesses brought before it to testify to the qualifications of the person challenged.

(b) Appearance by challenged registrant. The challenged registrant shall appear in person at the challenge hearing. If he is unable to appear in person, he may be represented by another person and must tender to the county board of elections an affidavit that he is a citizen of the United States, is at least 18 years of age or will become 18 by the date of the next general election, has or will have resided in this State and in the precinct for which registered for 30 days by the date of the next general election, is not disqualified from voting by the Constitution and laws of this State, is named _____ and was duly registered as a voter of _____ precinct in such name, and is the person represented to be by the affidavit."

Sec. 36. G.S. 163-106(d) is amended by repealing the last paragraph thereof.

Sec. 37. G.S. 163-107 is amended by deleting the following words in the tabulations of offices:

"All township offices not compensated by fees	One percent (1%) of the annual salary of the office sought
Constable, if compensated entirely by fees	Ten dollars (\$10.00), plus one percent (1%) of the income of the office above one thousand dollars (\$1,000)
Justice of the peace, if compensated entirely by fees	Ten dollars (\$10.00), plus one percent (1%) of the income of the office above one thousand dollars (\$1,000)"

and by deleting the words "and township" after the words "All county" and before the words "offices compensated" in the last paragraph in the tabulation of offices.

Sec. 38. G.S. 163-108(c) is amended by striking out the words and punctuation in the first sentence "in which there is no rotation agreement as provided by G.S. 163-116," following the words "multi-county senatorial districts" and before the words "the chairman or".

Sec. 39. G.S. 163-109(a) is amended by striking out the words "and township" after the words "district, county" and before the words "ballots as" and by adding the word "and" before the word "county" and after the word "district" in the first sentence thereof.

Sec. 40. G.S. 163-109(c) is rewritten to read as follows:

"(c) Ballots to be furnished by county board of elections. It shall be the duty of the county board of elections to print official ballots for each political party having candidates for the following offices to be voted for in the primary:

Superior court judge,
 District court judge,
 Solicitor,
 State Senator,
 Member of the House of Representatives of the General Assembly, and
 All county offices.

In printing primary ballots, the county board of elections shall be governed by instructions of the State Board of Elections with regard to width, color, kind of paper, form, and size of type.

In its discretion, the county board of elections may print separate primary ballots for the district and county offices listed in this subsection, or it may combine some or all of them on a single ballot. In a primary election, if there shall be 10 or more candidates for nomination to any one office, the county board of elections in its discretion may prepare a separate ballot for said office.

Three days before the primary election, the chairman of the county board of elections shall distribute official State, district, and county ballots to the registrar of each precinct in his county, and the registrar shall give him a receipt

for the ballots received. On the day of the primary it shall be the registrar's duty to have all the ballots delivered to him available for use at the precinct voting place."

Sec. 41. G.S. 163-109 is amended by adding a new subsection (d) to read as follows:

"(d) District Solicitors' ballots. In all primary elections for the nomination of candidates to the office of Solicitor, the State or county board of elections responsible under this section for preparing ballots for that office shall cause to be printed after the title 'Solicitor' on the ballot the words 'District Attorney' and shall cause the initial letter of those words to be capitalized and the words to be put in parentheses and in quotation marks."

Sec. 42. G.S. 163-110 is amended by deleting the words and punctuation "all township offices," after the words "All county offices" and before the words "State Senators" in the proviso in the first sentence.

Sec. 43. G.S. 163-111(c) is rewritten to read as follows:

"(c) Procedure for requesting second primary. (1) An aspirant entitled to demand a second primary for one of the offices listed below, and desiring to do so, shall file a request for a second primary in writing or by telegram with the State Board of Elections by 12:00 noon, on the third day after the result of the first primary has been officially declared:

Governor,
Lieutenant Governor,
All State executive officers,
Justices, Judges, or Solicitors of the General Court of Justice
United States Senators,
Members of the United States House of Representatives,
State Senators in multi-county senatorial districts, and
Members of the State House of Representatives in multi-county representative districts.

(2) An aspirant entitled to demand a second primary for one of the offices listed below, and desiring to do so, shall file a written request for a second primary with the board of elections in the county in which he filed notice of candidacy by 12:00 noon, on the fifth day after the result of the first primary has been officially declared:

State Senators in single-county senatorial districts,
Members of the State House of Representatives in single-county representative districts, and
All county officers."

Sec. 44. G.S. 163-111(d)(1) and (2) are rewritten to read as follows:

"(d) Tie votes; how determined.

(1) In the event of a tie for the highest number of votes in a first primary between two candidates for party nomination for a single county, or single-county legislative district office, the board of elections of the county in which the two candidates were voted for shall conduct a recount and declare the results. If the recount shows a tie vote, a second primary shall be held on the date prescribed in subsection (e) of this section between the two candidates having an equal vote, unless one of the aspirants, within three days after the result of the recount has been officially declared, files a written notice of withdrawal with the board of elections with which he filed notice of candidacy. Should that be done, the remaining aspirant shall be declared the nominee. In

the event of a tie for the highest number of votes in a first primary among more than two candidates for party nomination for one of the offices mentioned in this subdivision, no recount shall be held, but all of the tied candidates shall be entered in a second primary.

(2) In the event of a tie for the highest number of votes in a first primary between two candidates for a State office, for United States Senator, or for any district office (including State Senator in a multi-county senatorial district and member of the State House of Representatives in a multi-county representative district), no recount shall be held solely by reason of the tie, but the two candidates having an equal vote shall be entered in a second primary to be held on the date prescribed in subsection (e) of this section, unless one of the two candidates files a written notice of withdrawal with the State Board of Elections within three days after the result of the first primary has been officially declared and published. Should that be done, the remaining aspirant shall be declared the nominee. In the event of a tie for the highest number of votes in a first primary among more than two candidates for party nomination for one of the offices mentioned in this subdivision, no recount shall be held, but all of the tied candidates shall be entered in a second primary."

Sec. 45. G.S. 163-114 is amended by striking "not having a rotation agreement" after the words "State Senator in a multi-county senatorial district", by striking "State Senator in a multi-county senatorial district having a rotation agreement", and by striking "any elective township office".

Sec. 46. G.S. 163-115 is amended by rewriting the first paragraph to read as follows:

"If a vacancy occurs in the office of the clerk of superior court, otherwise than by expiration of the term, or if the people fail to elect, the vacancy shall be filled as provided in Section 9(3) of Article IV of the North Carolina Constitution. If the vacancy occurs after the time for filing notice of candidacy in the primary has expired in a year when a regular election is not being held to elect a clerk of superior court by expiration of term, then the county executive committee of each political party shall nominate a candidate whose name shall appear on the general election ballot. The candidate elected in the general election shall serve the unexpired portion of the term of the person causing the vacancy."

Sec. 47. G.S. 163-116 is repealed.

Sec. 48. G.S. 163-117 is repealed.

Sec. 49. G.S. 163-118 is repealed.

Sec. 50. G.S. 163-122 is amended by striking out "twenty-five percent (25%)" and inserting in lieu thereof "ten percent (10%)".

Sec. 51. G.S. 163-128 is amended by adding a new sentence to the end of the first paragraph to read as follows:

"There shall be at least one voting place in each precinct."

Sec. 52. G.S. 163-128 is amended by repealing the second paragraph thereof.

Sec. 53. G.S. 163-128 is amended by rewriting the third paragraph thereof to read as follows:

"The county board of elections shall have power from time to time, by resolution, to establish, alter, discontinue, or create such new election precincts or voting places as it may deem expedient. Upon adoption of a resolution establishing, altering, discontinuing, or creating a precinct or voting place, the board shall give 20 days' notice thereof prior to the date on which the

registration books or records next close pursuant to G.S. 163-67. Notice shall be given by advertisement in a newspaper having general circulation in the county, by posting a copy of the resolution at the courthouse door, and by mailing a copy of the resolution to the chairman of every political party in the county."

Sec. 54. G.S. 163-129 is amended by rewriting the last paragraph thereof to read as follows:

"The county board of elections shall inspect each precinct voting place to ascertain how it should be arranged for voting purposes, and shall direct the registrar and judges of any precinct to define the voting place by roping off the area or otherwise enclosing it or by marking its boundaries. The boundaries of the voting place shall at any point lie no more than 100 feet from each ballot box or voting machine. The space so roped off or enclosed or marked for the voting place may contain area both inside and outside the structure in which registration and voting are to take place."

Sec. 55. G.S. 163-136(b)(2) is amended by deleting the word "township" between the words "For county" and "single-county district".

Sec. 56. G.S. 163-140 is amended in subsection (a) by deleting subparagraph (6) and renumbering subparagraph (7) to be subparagraph (6); in subsection (b) by deleting subparagraph (6) and renumbering subparagraph (7) to be subparagraph (6); in subsection (c)(1) by deleting paragraph e.; and by repealing and rewriting subsection (d) to read as follows:

"(d) Municipal primary and election ballots. In all municipal elections there shall be an official ballot on which shall be printed the names of all candidates for offices in the municipality. The municipal ballot shall conform as nearly as possible to the provisions of subsection (a) through (c) of this section, but on the bottom of the municipal ballot shall be printed an identified facsimile of the signature of the chairman of the county or municipal board of elections, as appropriate."

Sec. 57. G.S. 163-140 is amended by adding a new subsection (e) to read as follows:

"(e) District Solicitors' ballots - In all general elections for the election of nominees to the office of Solicitor, the State or county board of elections responsible for preparing ballots for that office shall cause to be printed after the title 'Solicitor' on the ballot the words 'District Attorney' and shall cause the initial letter of those words to be capitalized, and the words to be put in parentheses and in quotation marks."

Sec. 58. G.S. 163-146 is amended by rewriting the first paragraph thereof to read as follows:

"At each precinct voting place as described in G.S. 163-129, there shall be a room or area set apart as the voting enclosure. The limits of the voting enclosure shall be defined by walls, guard rails, or other boundary markers which at no point stand nearer than 10 feet nor farther than 20 feet from each ballot box or voting machine. This enclosure shall be arranged so that a single door or opening (not more than three feet wide) can be used as the entrance for persons seeking to vote."

Sec. 59. G.S. 163-148 is amended in the first paragraph by deleting the words and punctuation, "and, if allowed, official markers," after the word "assistants" and before the words "shall meet"; by adding the word "and" after the words "the judges of elections" and before the word "assistants"; and by

deleting the words and punctuation “, and G.S. 163-44” and adding the word “and” between the words “G.S. 163-41(a)” and “G.S. 163-42”.

Sec. 60. G.S. 163-150 is amended by deleting the last sentence of paragraph (c) and by adding a new paragraph (g) to read as follows:

“(g) Subject to the provisions of G.S. 163-152 and G.S. 163-152.1, no voter shall be allowed to occupy a voting booth or voting machine already occupied by another voter, provided, however, that this prohibition shall not apply to husbands and wives. No voter shall be allowed to occupy a voting booth or voting machine more than five minutes if all the booths or machines are in use and other voters are waiting to obtain booths or machines.”

Sec. 61. G.S. 163-150(f) is amended by repealing the last paragraph thereof and by rewriting the first paragraph to read as follows:

“(f) Maintenance of pollbook or other record of voting. At each primary and general or special election, the precinct registrar shall appoint two clerks (one from each political party, having been recommended by the county chairman of their respective political parties) who shall jointly keep the pollbook or such other record of persons voting as may be approved for use in the county by the State Board of Elections. He shall enter into the pollbook or other approved record the name of every person who shall vote. In a primary election each voter's party affiliation shall be entered in the proper column of the book or other approved record opposite his name. The judge shall make each entry at the time the ballots are handed to the voter. As soon as the polls are closed and the names of absentee voters have been entered as required by G.S. 163-234, the registrar and judges of election shall sign the pollbook or other approved record immediately beneath the last voter's name entered therein. The registrar or the judge appointed to attend the county canvass shall deliver the pollbook or other approved record to the chairman of the county board of elections at the time of the county canvass, and the chairman shall remain responsible for its safekeeping.”

Sec. 62. G.S. 163-151(2)d and (3)b are repealed, and G.S. 163-151(3) is amended to read as follows:

“(3) In a Primary. A voter shall not write the name of any person on the official ballot.”

Sec. 63. G.S. 163-152 is amended by repealing all of subsection (b); renumbering subsection (c) to be subsection (b), subsection (d) to be subsection (c), and subsection (e) to be subsection (d); and by adding the words “or general election” after the words “primary” or “primaries” wherever they appear.

Sec. 64. G.S. 163-153 is rewritten as follows:

“§ 163-153. *Access to voting enclosure.*—In all counties, only the following persons shall be allowed within the voting enclosure while the polls are open to voting:

1. Officers of election, that is, members of the State Board of Elections, members of the county board of elections, and the precinct registrar, precinct judges of election, and assistants appointed for the precinct under the provisions of G.S. 163-42.

2. Voters in the act of voting.

3. A near relative of a voter, but only while assisting the voter as authorized in G.S. 163-152.

4. Any voter of the precinct called upon to assist another voter, but only while assisting him as authorized in G.S. 163-152.

5. Municipal policemen assigned by the municipal authorities to keep the peace at a voting place located within the municipality, but only when requested to come within the voting enclosure by the registrar and judges for the purpose of preventing disorder; at the request of the registrar and judges, they shall withdraw from the voting enclosure and remain at least 10 feet from its entrance.

6. Any voter of the precinct while entering and explaining a challenge.

7. Watchers appointed under the provisions of G.S. 163-45."

Sec. 65. G.S. 163-155 is amended by adding a new paragraph (5) after the present paragraph (4) as follows:

"(5) If there is no assistant appointed under G.S. 163-42 to perform the duties required by this section, the precinct registrar or one of the precinct judges, to be designated by the voter, if he chooses, or, if he does not, by the precinct registrar, shall perform those duties."

Sec. 66. G.S. 163-162 is amended by adding the words and numbers "and G.S. 163-155" at the end following the words and numbers "under the provisions of G.S. 163-150(e)".

Sec. 67. G.S. 163-168 is rewritten to read as follows:

"At the time set by G.S. 163-2 for closing the polls on the day of a primary, general or special election, the precinct registrar shall announce that the polls are closed, but any qualified voters who are then in the process of voting or who are in line at the voting place waiting to vote, whether or not they are within the voting enclosure or voting place boundaries, shall be allowed to vote.

At closing time, the registrar, or a judge designated by the registrar, shall enter into the pollbook, on a separate page labeled 'Persons Waiting to Vote at Closing Time in the Primary/ Election Held the ____ Day of ____, 19__', the names of all persons then in line at the voting place waiting to vote, beginning with the person last in line and proceeding to the person first in line at closing time. No persons shall be allowed to vote after closing time unless their names are so listed."

Sec. 68. G.S. 163-170 is amended by deleting paragraphs (7) and (8).

Sec. 69. G.S. 163-177 is amended by deleting the words in the first sentence of the first paragraph "Within five days after a primary or election is held" and inserting in lieu thereof "Within twenty-four hours after the returns of a primary or election have been canvassed and the results judicially determined".

Sec. 70. G.S. 163-179 is rewritten to read as follows:

"§ 163-179. *Who declared elected by county board.*—In a general election, the person having the greatest number of legal votes for a county office or for membership in one of the houses of the General Assembly in a representative or senatorial district composed of only one county shall be declared elected by the county board of elections. If two or more candidates for a county office, having the greatest number of votes, shall have an equal number, the county board of elections shall determine by lot which shall be elected. If two or more candidates for membership in one of the houses of the General Assembly in a representative or senatorial district composed of only one county, having the greatest number of votes, shall have an equal number, the determination of which of the candidates is elected shall be governed by the provisions of G.S. 163-191."

Sec. 71. G.S. 163-245(2) is amended by striking the words "wives of men", and inserting in lieu thereof "spouses of persons", and by striking the word "husbands" and inserting in lieu thereof the word "spouses".

Sec. 72. G.S. 163-248(c)(2) is amended by striking the words "the wife of a member of the armed forces of the United States residing outside the county of my husband's residence", and inserting in lieu thereof the words "the spouse of a member of the armed forces of the United States residing outside the county of my spouse's residence".

Sec. 73. G.S. 163-263 is amended by striking the words "federal" and "except where there shall be agreement for rotation as provided in G.S. 163-116" in the first paragraph.

Sec. 74. G.S. 163-267 is amended by striking the word "federal" in the first sentence thereof.

Sec. 75. G.S. 163-280(a) is rewritten in the first paragraph only to read as follows:

"(a) In each city that is authorized and elects to conduct its own elections in the manner provided by G.S. 163-285, there shall be a municipal board of elections consisting of three persons of good moral character who are registered voters of the city. Members of the municipal boards of elections shall be appointed by the city council at its regularly scheduled meeting held next before July 1 in each year preceding each regular municipal primary or election, and their terms of office shall be for two years beginning July 1 and until their successors are appointed and qualify. In municipalities where there are registered voters of more than one party, not more than two members of the municipal board of elections shall belong to the same political party, if the municipal offices are elected on a partisan basis."

Sec. 76. G.S. 163-280(c) is amended by adding a new sentence between the present first and second sentences, as follows:

"The municipal board of elections may then or at any time thereafter appoint an executive secretary, who shall have all of the powers and duties of an executive secretary to a county board of elections."

Sec. 77. G.S. 163-280 is amended by adding a new paragraph (g) as follows:

"(g) No municipal, county, State or national chairman of any political party shall have the right to recommend to the city council the names of any person for appointment to membership on a municipal board of elections."

Sec. 78. G.S. 163-280 is amended by adding a new paragraph (h) as follows:

"(h) Whenever a vacancy occurs in the membership of any municipal board of elections for any cause, the appointing city council shall fill the vacancy within 30 days of when it occurs."

Sec. 79. G.S. 163-280 is amended by adding a new paragraph (i) as follows:

"(i) The city council with power to appoint a member of a municipal board of elections or the State Board of Elections may remove a member of a municipal board of elections for incompetency, neglect or failure to perform duties, fraud, or any other satisfactory cause. Before exercising this removal power, the city council or the State Board of Elections shall notify the municipal board member affected and give him an opportunity to be heard."

Sec. 80. G.S. 163-281(a) is amended by adding a new sentence between the first and second sentences thereof, as follows:

“Not more than one judge in each precinct where there are registered voters of more than one political party shall belong to the same political party as the registrar, if the municipal elections are on a partisan basis.”

Sec. 81. G.S. 163-281 is amended by adding a new paragraph as follows:

“(g) No municipal, county, State or national chairman of any political party shall have the right to recommend to the municipal board of elections the name of any person for appointment as a precinct registrar, judge of elections, assistant or ballot counter.”

Sec. 82. G.S. 163-281 is amended by adding a new paragraph (h) as follows:

“(h) The municipal board of elections may designate the precinct in which each registrar, judge, assistant, ballot counter, or watcher or other officers of elections shall serve; and, after notice and hearing, may remove any registrar, judge, assistant, ballot counter, watcher, executive secretary or other officers of elections appointed by it for incompetency, failure to discharge the duties of office, failure to qualify within the time prescribed by law, fraud, or for any other satisfactory cause.”

Sec. 83. G.S. 163-281 is amended by adding a new paragraph (i) as follows:

“(i) Except as otherwise provided in this Chapter, precinct assistants, ballot counters, watchers, and the executive secretary and other officers of elections appointed by the municipal board of elections shall have the same powers and duties with respect to municipal elections as precinct assistants, ballot counters, watchers, and executive secretaries and other officers of elections appointed by county boards of elections.”

Sec. 84. G.S. 163-284(a) is amended by adding the word “forthwith” after the words “the county board of elections shall” and before the words “notify any such person” in the fourth sentence.

Sec. 85. G.S. 163-286 is retitled to read “*Conduct of municipal and special district elections; application of Chapter 163*,” and G.S. 163-286(a) is repealed and rewritten to read as follows:

“(a) To the extent that the laws, rules and procedures applicable to the conduct of primary, general and special elections by county boards of elections under Articles 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 19 and 22 of this Chapter are not inconsistent with provisions of this Article, those laws, rules and procedures shall apply to municipal and special district elections and their conduct by the board of elections conducting those elections. The State Board of Elections shall have the same authority over all such elections as it has over county and State elections under those Articles.”

Sec. 86. G.S. 163-287 is rewritten to read as follows:

“§ 163-287. *Special elections; procedure for calling.*—Any city, whether its elections are conducted by the county board of elections or the municipal board of elections, or any special district shall have authority to call special elections as permitted by law. Prior to calling a special election, the city council or the governing body of the special district shall adopt a resolution specifying the details of the election, and forthwith deliver the resolution to the appropriate board of elections. The resolution shall call on the board of elections to conduct the election described in the resolution and shall state the date on which the

special election is to be conducted. The special election may be held at the same time as any other State, county or municipal primary, election or special election or referendum, but may not otherwise be held within the period of time beginning 30 days before and ending 30 days after the date of any other primary, election, special election or referendum held for that city or special district.

Legal notice of the special election shall be published no less than 20 days prior to the date on which the registration books or records close for the special election. The appropriate board of elections shall be responsible for publishing the legal notice. The notice shall state the date and time of the special election, the issue to be submitted to the voters, and the precincts in which the election will be held. This paragraph shall not apply to bond elections."

Sec. 87. G.S. 163-288(b) is rewritten as follows:

"(b) Where the municipal board of elections conducts the elections, each such municipality shall purchase only those loose-leaf binders for the registration records that have been approved by the State Board of Elections.

The loose-leaf registration forms shall be those approved by the State Board of Elections. When completed by each municipal registrant, the forms shall be the official registration record in each municipality and shall be kept in agreement with the county registration records for that registrant. They shall be prepared, completed, maintained and kept current pursuant to the same provisions of Article 7, G.S. Chapter 163, as apply to registration records of county boards of elections. They also shall be furnished by the State Board of Elections, through the respective county boards of elections, to the municipalities.

Every municipal board of elections conducting the elections in any city, town, or incorporated village shall secure and install those binders and loose-leaf forms required by this section no later than January 1, 1973, or no later than 90 days after any such municipality elects to conduct its own elections."

Sec. 88. G.S. 163-288.1(a) is rewritten to read as follows:

"§ 163-288.1. *Activating voters for newly annexed or incorporated areas.*—(a) Whenever any new city or special district is incorporated or whenever an existing city or district annexes any territory, the city or special district shall cause a map of the corporate or district limits to be prepared from the boundary descriptions in the act, charter or other document creating the city or district or authorizing or implementing the annexation. The map shall be delivered to the county or municipal board of elections conducting the elections for the city or special district. The board of elections shall then activate for city or district elections each voter eligible to vote in the city or district who is registered to vote in the county to the extent that residence addresses shown on the county registration certificates can be identified as within the limits of the city or special district. Each voter whose registration is thus activated for city or special district elections shall be so notified by mail. The cost of preparing the map of the newly incorporated city or special district or of the newly annexed area, and of activating voters eligible to vote therein, shall be paid by the city or special district. In lieu of the procedures set forth in this section, the county board of elections may use either of the methods of registration of voters set out in G.S. 163-288.2 when activating voters pursuant to the incorporation of a new city or election of city officials or both under authority of an act of the General Assembly."

Sec. 89. G.S. 163-289 is amended by adding a new subsection (c) as follows:

“(c) If a municipal board of elections sustains a challenge on the grounds that a voter registered to vote in the municipality is not a resident of the municipality, it shall forthwith certify its decision to the county board of elections of the county or counties in which the municipality lies, and the voter’s registration for municipal elections shall be expunged from the county registration records.”

Sec. 90. G.S. 163-293(e) is amended by deleting the reference to “G.S. 163-111(e)” and inserting in lieu thereof “G.S. 163-279(a)(4).”

Sec. 91. G.S. 163-295 is repealed and rewritten to read as follows:

“§ 163-295. *Municipal and special district elections; application of Chapter 163.*—To the extent that the laws, rules and procedures applicable to the conduct of primary, general or special elections by county boards of elections under Articles 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 19 and 22 of this Chapter are not inconsistent with the provisions of this Article, those laws, rules and procedures shall apply to municipal and special district elections and their conduct by the board of elections conducting those elections. The State Board of Elections shall have the same authority over all such elections as it has over county and State elections under those Articles.”

Sec. 92. G.S. 163-304 is rewritten as follows:

“§ 163-304. *State Board of Elections to have jurisdiction over municipal elections and election officials, and to advise.*—The State Board of Elections shall have the same authority over municipal elections and election officials as it has over county and State elections and election officials. The State Board of Elections shall advise and assist cities, towns, incorporated villages and special districts, municipal boards of elections, their members and legal officers on the conduct and administration of their elections and registration procedure.

The county and municipal boards of elections shall be governed by the same rules for settling controversies with respect to counting ballots or certification of the returns of the vote in any municipal or special district election as are in effect for settling such controversies in county and State elections.”

Sec. 93. G.S. 163-1 is amended by striking from it all references to constables, justices of the peace and all other township officers to be elected by the people.

Sec. 94. G.S. 163 is amended by deleting the word “watchers” wherever it appears and inserting in lieu thereof the word “observers”.

Sec. 95. G.S. 163-42 is rewritten to read as follows:

“§ 163-42. *Assistants at polls; appointment; term of office; qualifications; oath of office.*—Each county board of elections shall appoint at least two assistants for each precinct within the county, and in its discretion may appoint more than two, to aid the registrar and the judges. Assistants shall, in all cases, be qualified voters of the precinct for which appointed, and shall serve for the primary or election for which appointed and no longer.

The Chairman of each political party in the county shall have the right to recommend from three to five registered voters in each precinct for appointment as precinct assistants in that precinct. If the recommendations are received by it before the seventh Saturday before the primary is to be held, the board shall make appointments of the two required precinct assistants from the names thus recommended, making one such appointment from the recommended names of

each of the two parties. The board may make appointments of additional precinct assistants from the names recommended, but it shall not be required to do so.

No person who is a candidate for nomination or elections shall be eligible to serve as an assistant.

In a precinct in which voting machines are not used, the county board of elections may appoint one precinct assistant in addition to the two required precinct assistants for each 300 voters registered in that precinct. In a precinct in which voting machines are used, the board may appoint one assistant in addition to the two required precinct assistants for each 500 voters registered in that precinct.

Before entering upon the duties of the office, each assistant shall take the oath prescribed in G.S. 163-41(a) to be administered by the registrar of the precinct for which the assistant is appointed."

Sec. 96. This act shall become effective on July 1, 1973.

In the General Assembly read three times and ratified, this the 24th day of May, 1973.

H. B. 1069

CHAPTER 794

AN ACT TO AMEND G.S. 105-42 DEALING WITH PRIVILEGE LICENSE TAXES OF PRIVATE DETECTIVES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-42 is rewritten to read as follows:

"§ 105-42. *Privilege tax license.*—(a) Every person, whether acting as an individual, as a member of a partnership, or as an officer and/or agent of a corporation, who is engaged in a business included in the definition of Private Protective Services, shall apply for and obtain from the Commissioner of Revenue a statewide license for the privilege of engaging in such business; and shall pay for such license a tax of twenty-five dollars (\$25.00). Provided, any person regularly employed by the United States government, any state or political subdivision of any state, shall not be required to pay the license herein provided for. This shall not apply, however, to guards employed by guard and patrol licensees, nor to employees of retail shopping services.

(b) No privilege tax license shall be issued pursuant to this section until the applicant exhibits to the Commissioner of Revenue an original or certified copy of the license required by G.S. 49.2 which is current and has been issued to the applicant.

(c) No county, city, or town shall levy any license tax on the business taxed under this section."

Sec. 2. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 24th day of May, 1973.

H. B. 1346

CHAPTER 795

AN ACT TO AMEND G.S. 7A-102.1 SO AS TO PROVIDE THAT CERTAIN EMPLOYEES AND OFFICERS OF THE CLERKS OF SUPERIOR COURT MAY ACCUMULATE AN UNLIMITED AMOUNT OF SICK LEAVE FOR RETIREMENT PURPOSES WHEN THEY BECOME STATE EMPLOYEES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-102.1(a) is hereby amended by deleting from line 8 the words "not exceeding earned sick leave in an amount totaling 30 work days" and inserting in lieu thereof "without any maximum limitation thereof".

Sec. 2. G.S. 7A-102.1(b) is hereby amended by deleting from lines 6 and 7 the words "not exceeding earned sick leave in an amount totaling 30 work days" and inserting in lieu thereof "without any maximum limitation thereof".

Sec. 3. Any employee covered by G.S. 7A-102.1 who retires on or after the ratification of this act shall be given credit for all sick leave accumulated at the time of the ratification of this act.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of May, 1973.

S. B. 319

CHAPTER 796

AN ACT TO AUTHORIZE THE INCLUSION OF EXPENSES INCURRED IN THE OPERATION OF ATHLETIC AND INTRAMURAL PROGRAMS IN THE SCHOOL CURRENT EXPENSE AND CAPITAL OUTLAY BUDGETS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115-78(b) (6) is hereby amended by adding the words and punctuation "costs of interscholastic, intrascholastic or intramural athletic or physical education programs;" after the words and punctuation "health, including clinics and recreation;".

Sec. 2. The first five lines of G.S. 115-78(c) are hereby rewritten to read as follows:

"The capital outlay fund shall provide for the purchase of sites and the erection of all school buildings properly belonging to school plants; improvement of new school grounds; alteration and addition to buildings; purchase of fields, bleachers, and other structures for interscholastic, intrascholastic or intramural athletic or physical education programs; purchase of furniture, equipment, trucks, automobiles, school buses, and other necessary items for the operation and administration of the public schools in the following divisions:"

Sec. 3. This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of May, 1973.

S. B. 755

CHAPTER 797

AN ACT TO AMEND ARTICLE 29C OF CHAPTER 143 OF THE GENERAL STATUTES OF NORTH CAROLINA, RELATING TO THE ESTABLISHMENT OF A SYSTEM OF YOUTH COUNCILS, TO ALLOW THE APPROPRIATION OF STATE FUNDS FOR THE USE OF THE STATE YOUTH COUNCIL AND THE YOUTH ADVISORY BOARD.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-283.31 is hereby repealed.

Sec. 2. G.S. 143-283.27 is amended by adding at the end thereof the following:

“(c) The members of the Board who are not officers or employees of the State shall receive for their services the per diem and allowances prescribed by G.S. 138-5.”

Sec. 3. There is hereby appropriated out of the General Fund to the Department of Administration, in addition to all other appropriations, the sum of two thousand nine hundred dollars (\$2,900) for the per diem and allowances authorized in Section 2.

Sec. 4. There is hereby appropriated out of the General Fund to the Department of Administration, in addition to all other appropriations, the sum of thirty thousand dollars (\$30,000) to be expended in the payment of the salary and office, secretarial, and travel expenses of the Executive Secretary of the State Youth Council.

Sec. 5. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 24th day of May, 1973.

S. B. 827

CHAPTER 798

AN ACT TO AMEND CHAPTER 147, SECTION 45, OF THE NORTH CAROLINA GENERAL STATUTES RELATING TO DISTRIBUTION OF THE STATE PUBLICATIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 147-45 as it is set out in the 1971 Cumulative Supplement to Volume 3C of the General Statutes is amended on line 52 of the table of State Departments and Officials: State Library, by changing the numbers of Session Laws and House and Senate Journals to be distributed from 23 to five; so that the line shall read as follows:

“State Library	5	5	3.”
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Sec. 2. G.S. 147-45 as it is set out in the 1971 Cumulative Supplement to Volume 3C of the General Statutes is further amended on line 53 of the table of State Departments and Officials: Legislative Building Library, by changing the number of Session Laws to be distributed from two to 25; and the number of House and Senate Journals from two to 15; so that the line shall read as follows:

“Legislative Building Library	25	15	2.”
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Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of May, 1973.

S. B. 548

CHAPTER 799

AN ACT TO AMEND G.S. 7A-465 TO PROVIDE FOR THE ESTABLISHMENT OF THE OFFICE OF PUBLIC DEFENDER IN THE TWENTY-EIGHTH JUDICIAL DISTRICT AND TO AMEND G.S. 7A-466 TO PROVIDE FOR THE APPOINTMENT OF THE PUBLIC DEFENDER BY THE SENIOR RESIDENT SUPERIOR COURT JUDGE OF THAT JUDICIAL DISTRICT.

The General Assembly of North Carolina enacts:

Section 1. The first paragraph of G.S. 7A-465, as the same appears in the 1969 Replacement Volume 1B of the General Statutes, is hereby amended by adding a new sentence at the end thereof which shall read as follows:

“The office of public defender is established, effective July 1, 1973, in the twenty-eighth judicial district.”

Sec. 2. The first paragraph of G.S. 7A-466, as the same appears in the 1969 Replacement Volume 1B of the General Statutes, is hereby amended by rewriting it to read as follows:

“§ 7A-466. *Selection of defender; term; removal.*—The public defender in the twelfth and eighteenth judicial districts shall be appointed by the Governor from a list of not less than two names and not more than three names nominated by written ballot of the attorneys resident in the district who are licensed to practice law in North Carolina. The public defender in the twenty-eighth judicial district shall be appointed by the senior resident superior court judge of that judicial district from a list of not less than two names and not more than three names nominated by written ballot of the attorneys resident in the district who are licensed to practice law in North Carolina. The balloting shall be conducted pursuant to regulations promulgated by the Administrative Office of the Courts. The term of office of the public defender in the twelfth and eighteenth judicial districts is four years beginning January 1, 1970, and each fourth year thereafter. The term of office of the public defender in the twenty-eighth judicial district is four years beginning July 1, 1973, and each fourth year thereafter.”

Sec. 3. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 24th day of May, 1973.

S. B. 844

CHAPTER 800

AN ACT TO REVISE ARTICLE 6, CHAPTER 90 OF THE GENERAL STATUTES, RELATING TO THE POWERS AND DUTIES OF THE NORTH CAROLINA STATE BOARD OF EXAMINERS IN OPTOMETRY.

The General Assembly of North Carolina enacts:

Section. 1. G.S. 90-117 is rewritten to read as follows:

“§ 90-117. *Officers; common seal.*—The North Carolina State Board of Examiners in Optometry shall, at each annual meeting thereof, elect one of its members president and one secretary-treasurer. The common seal which has already been adopted by said Board, pursuant to law, shall be continued as the seal of said Board.”

Sec. 2. There is hereby written a new section to be numbered G.S. 90-117.1 and to read as follows:

"§ 90-117.1. *Quorum; adjourned meetings.*—Three members of said Board shall constitute a quorum for the transaction of business and at any meeting of the Board; if three members are not present at the time and the place appointed for the meeting, those members of the Board present may adjourn from day to day until a quorum is present, and the action of the Board taken at any adjourned meeting thus had shall have the same force and effect as if had upon the day and at the hour of the meeting called and adjourned from day to day."

Sec. 3. There is hereby written a new section to be numbered G.S. 90-117.2 and to read as follows:

"§ 90-117.2. *Records and transcripts.*—The said Board shall keep a record of its transactions at all annual or special meetings and shall provide a record book in which shall be entered the names and proficiency of all persons to whom licenses may be granted under the provisions of law. The said book shall show, also, the license number and the date upon which such license was issued and shall show such other matters as in the opinion of the Board may be necessary or proper. Said book shall be deemed a book of record of said Board and a transcript of any entry therein or a certification that there is not entered therein the name, proficiency and license number or date of granting such license, certified under the hand of the secretary-treasurer, attested by the seal of the North Carolina State Board of Examiners in Optometry, shall be admitted as evidence in any court of this State when the same shall otherwise be competent."

Sec. 4. There is hereby written a new section to be numbered G.S. 90-117.3 and to read as follows:

"§ 90-117.3. *Annual and special meetings.*—The North Carolina State Board of Examiners in Optometry shall meet annually in June of each year at such place as may be determined by the Board, and at such other times and places as may be determined by action of the Board or by any three members thereof. Notice of the place of the annual meeting and of the time and place of any special or called meeting shall be given in writing, by registered or certified mail or personally, to each member of the Board at least 10 days prior to said meeting; provided the requirements of notice may be waived by any member of the Board. At the annual meeting or at any special or called meeting, the said Board shall have the power to conduct examination of applicants and to transact such other business as may come before it, provided that in case of a special meeting, the purpose for which said meeting is called shall be stated in the notice."

Sec. 5. There is hereby written a new section to be numbered G.S. 90-117.4 and to read as follows:

"§ 90-117.4. *Judicial powers; additional data for records.*—The president of the North Carolina State Board of Examiners in Optometry, and/or the secretary-treasurer of said Board, shall have the power to administer oaths, issue subpoenas requiring the attendance of persons and the production of papers and records before said Board in any hearing, investigation or proceeding conducted by it. The sheriff or other proper official of any county of the State shall serve the process issued by said president or secretary-treasurer of said Board pursuant to its requirements and in the same manner as process issued by any court of record. The said Board shall pay for the service of all process, such fees as are provided by law for the service of like process in other cases.

Any person who shall neglect or refuse to obey any subpoena requiring him to attend and testify before said Board or to produce books, records or documents shall be guilty of a misdemeanor and upon conviction thereof shall be fined or imprisoned in the discretion of the court.

The Board shall have the power, upon the production of any papers, records or data, to authorize certified copies thereof to be substituted in the permanent record of the matter in which such books, records or data shall have been introduced in evidence."

Sec. 6. There is hereby written a new section to be numbered G.S. 90-117.5 and to read as follows:

"§ 90-117.5. *Bylaws and regulations.*—The North Carolina State Board of Examiners in Optometry shall have the power to make necessary bylaws and regulations, not inconsistent with the provisions of this Article, regarding any matter referred to in this Article and for the purpose of facilitating the transaction of business by the said Board."

Sec. 7. G.S. 90-118 is rewritten to read as follows:

"§ 90-118. *Examination and licensing of applicants; qualifications; causes for refusal to grant license; void licenses.*—(a) The North Carolina State Board of Examiners in Optometry shall grant licenses to practice optometry to such applicants who are graduates of an accredited optometric institution, who, in the opinion of a majority of the Board, shall undergo a satisfactory examination of proficiency in the knowledge and practice of optometry, subject, however, to the further provisions of this section and to the provisions of this Article.

(b) The applicant shall be of good moral character, at least 21 years of age at the time the application for examination is filed. The application shall be made to the said Board in writing and shall be accompanied by evidence satisfactory to said Board that the applicant is a person of good moral character, has an academic education, the standard of which shall be determined by the said Board; that he is a graduate of and has a diploma from an accredited optometric college or the optometric department of an accredited university or college recognized and approved as such by the said Board.

(c) The North Carolina State Board of Examiners in Optometry is authorized to conduct both written or oral and clinical examinations of such character as to thoroughly test the qualifications of the applicant, and may refuse to grant license to any person who, in its discretion, is found deficient in said examination, or to any person guilty of cheating, deception, or fraud during such examination, or whose examination discloses to the satisfaction of the Board, a deficiency in academic education. The Board may employ such optometrists found qualified therefor by the Board, in examining applicants for licenses as it deems appropriate.

(d) Any license obtained through fraud or by any false representation shall be void ab initio and of no effect."

Sec. 8. There is hereby written a new section to be numbered G.S. 90-118.1 and to read as follows:

"§ 90-118.1. *Contents of original license.*—The original license granted by the North Carolina State Board of Examiners in Optometry shall bear a serial number, the full name of the applicant, the date of issuance and shall be signed by the president and a majority of the members of the said Board and attested by the seal of said Board and the secretary thereof. The certificate of renewal of

license shall bear a serial number which need not be the serial number of the original license issued, the full name of the applicant and the date of issuance."

Sec. 9. There is hereby written a new section to be numbered G.S. 90-118.2 and to read as follows:

"§ 90-118.2. *Displaying license and current certificate renewal.*—The license and the current certificate of renewal of license to practice optometry issued, as herein provided, shall at all times be displayed in a conspicuous place in the office of the holder thereof and whenever requested the license and the current certificate of renewal shall be exhibited to or produced before the North Carolina State Board of Examiners in Optometry or to its authorized agents."

Sec. 10. There is hereby written a new section to be numbered G.S. 90-118.3 and to read as follows:

"§ 90-118.3. *Refusal to grant renewal of license.*—For nonpayment of fee or fees required by this Article, or for violation of any of the terms or provisions of G.S. 90-121, the North Carolina State Board of Examiners in Optometry may refuse to issue a certificate of renewal of license. As used herein the term 'license' shall include license, provisional license or intern permit."

Sec. 11. There is hereby written a new section to be numbered G.S. 90-118.4 and to read as follows:

"§ 90-118.4. *Duplicate licenses.*—When a person is a holder of a license to practice optometry in North Carolina or the holder of a certificate of renewal of license, he may make application to the North Carolina State Board of Examiners in Optometry for the issuance of a copy or a duplicate thereof accompanied by a reasonable fee set by the Board. Upon the filing of the application and the payment of the fee, the said Board shall issue a copy or duplicate."

Sec. 12. There is hereby written a new section to be numbered G.S. 90-118.5 and to read as follows:

"§ 90-118.5. *Licensing practitioners of other states.*—(a) The North Carolina State Board of Examiners in Optometry may, in its discretion, issue a license to practice optometry in this State without an examination other than clinical to a legal and ethical practitioner of optometry who moves into North Carolina from another state or territory of the United States, whose standard of requirements is equal to that of the State of North Carolina and in which such applicant has conducted a legal and ethical practice of optometry for at least five years, next preceding his or her removal and who has not, during his period of practice, been found guilty by the state regulatory agency charged with the responsibility therefor of the violation of the ethics of his profession, nor found guilty by a court of competent jurisdiction of the violation of the criminal laws of the state which issued a license to him, or of the criminal laws of the United States, or whose license to practice optometry has not been revoked or suspended by a duly constituted authority.

(b) Application for license to be issued under the provisions of this section shall be accompanied by a certificate from the optometry board or like board of the state from which said applicant removed, certifying that the applicant is the legal holder of a license to practice optometry in that state, and for a period of five years immediately preceding the application has engaged in the practice of optometry; is of good moral character and that during the period of his practice no charges have been filed with said board against the applicant for the violation

of the criminal laws of the state or the United States, or for the violation of the ethics of the profession of optometry.

(c) Application for a license under this section shall be made to the North Carolina State Board of Examiners in Optometry within six months of the date of the issuance of the certificate hereinbefore required, and said certificate shall be accompanied by the diploma or other evidence of the graduation from an accredited, recognized and approved optometry college, school or optometry department of a college or university.

(d) Any license issued upon the application of any optometrist from any other state or territory shall be subject to all of the provisions of this Article with reference to the license issued by the North Carolina State Board of Examiners in Optometry upon examination of applicants and the rights and privileges to practice the profession of optometry under any license so issued shall be subject to the same duties, obligations, restrictions and the conditions as imposed by this Article on optometrists originally examined by the North Carolina State Board of Examiners in Optometry."

Sec. 13. There is hereby written a new section to be numbered G.S. 90-118.6 and to read as follows:

"§90-118.6. *Certificate issued to optometrist moving out of State.*—Any optometrist duly licensed by the North Carolina State Board of Examiners in Optometry, desiring to move from North Carolina to another state, territory or foreign country, if a holder of a certificate of renewal of license from said Board, upon application to said Board and the payment to it of the fee in this Article provided, shall be issued a certificate showing his full name and address, the date of license originally issued to him, the date and number of his renewal of license, and whether any charges have been filed with the Board against him. The Board may provide forms for such certificate, requiring such additional information as it may determine proper."

Sec. 14. There is hereby written a new section to be numbered G.S. 90-118.7 and to read as follows:

"§90-118.7. *Licensing former optometrists who have moved back into State or resumed practice.*—Any person who shall have been licensed by the North Carolina State Board of Examiners in Optometry to practice optometry in this State who shall have retired from practice or who shall have moved from the State and shall have returned to the State, may, upon a satisfactory showing to said Board of his proficiency in the profession of optometry and his good moral character during the period of his retirement, or absence from the State, be granted by said Board a license to resume the practice of optometry upon making application to the said Board in such form as it may require. The license to resume practice, after issuance thereof, shall be subject to all the provisions of this Article."

Sec. 15. There is hereby written a new section to be numbered G.S. 90-118.8 and to read as follows:

"§90-118.8. *Provisional license.*—(a) The North Carolina State Board of Examiners in Optometry may, subject to its rules and regulations, issue a provisional license to practice optometry to any person who is licensed to practice optometry anywhere in the United States or in any country, territory or other recognized jurisdiction, if the Board shall determine that said licensing jurisdiction imposed upon said person requirements for licensure no less exacting than those imposed by this State. A provisional licensee may engage in

the practice of optometry only in strict accordance with the terms, conditions and limitations of his license and with the rules and regulations of the Board pertaining to provisional license.

(b) A provisional license shall be valid until the date of the announcement of the results of the next succeeding Board examination of candidates for licensure to practice optometry in this State, unless the same shall be earlier revoked or suspended by the Board.

(c) No person who has failed an examination conducted by the North Carolina State Board of Examiners in Optometry shall be eligible to receive a provisional license.

(d) Any person desiring to secure a provisional license shall make application therefor in the manner and form prescribed by the rules and regulations of the Board and shall pay the fee prescribed in G.S. 90-123.

(e) A provisional licensee shall be subject to those various disciplinary measures and penalties set forth in G.S. 90-121 upon a determination of the Board that said provisional licensee has violated any of the terms or provisions of this Article."

Sec. 16. There is hereby written a new section to be numbered G.S. 90-118.9 and to read as follows:

"§ 90-118.9. *Intern permit.*—The North Carolina State Board of Examiners in Optometry may, in the exercise of the discretion of said Board, issue to a person who is not licensed to practice optometry in this State and who is a graduate of an optometry school, college, or institution approved by said Board, an intern permit authorizing such person to practice optometry under the supervision or direction of an optometrist duly licensed to practice in this State, subject to the following particular conditions:

(1) An intern permit shall be valid for no more than one year from the date of issue thereof; provided, however, that the Board may, in its discretion, renew such permit for not more than three additional one-year periods; and provided, further, that no person shall be granted an intern permit or intern permits embracing or covering an aggregate time span of more than 48 calendar months;

(2) The holder of a valid intern permit may practice optometry only under the supervision or direction of one or more optometrists duly licensed to practice in this State;

(3) The holder of a valid intern permit may practice optometry only (i) as an employee in a hospital, sanatorium, or a like institution which is licensed or approved by the State of North Carolina and approved by the North Carolina State Board of Examiners in Optometry; or (ii) as an employee of the State of North Carolina or an agency or political subdivision thereof, or any other governmental entity within the State of North Carolina, when said employment is approved by the North Carolina State Board of Examiners in Optometry;

(4) The holder of a valid intern permit shall receive no fee or fees or compensation of any kinds or nature for optometric services rendered by him other than such salary or compensation as might be paid to him by the entity specified in subdivision (3) above wherein or for which said services are rendered;

(5) The holder of a valid intern permit shall not, during the term of said permit or any renewal thereof, change the place of his internship without first securing the written approval of the North Carolina State Board of Examiners in Optometry;

(6) The practice of optometry by the holder of a valid intern permit shall be strictly limited to the confines of and to the registered patients of the hospital, sanatorium or institution to which he is attached or to the persons officially served by the government entity by whom he is employed;

(7) Any person seeking an intern permit shall first file with the North Carolina State Board of Examiners in Optometry such papers and documents as are required by said Board, together with the application fee authorized by G.S. 90-123. A fee authorized by G.S. 90-123 shall be paid for any renewal of said intern permit;

Such person shall further supply to the Board such other documents, materials, or information as the Board may request;

(8) Any person seeking an intern permit who is the holder of a valid intern permit shall comply with such limitations as the North Carolina State Board of Examiners in Optometry may place or cause to be placed, in writing, upon such permit, and shall comply with such rules and regulations as the Board might promulgate relative to the issuance and maintenance of said permit in the practice of optometry relative to the same;

(9) The holder of an intern permit shall be subject to the provisions of G.S. 90-121."

Sec. 17. There is hereby written a new section to be numbered G.S. 90-118.10 and to read as follows:

"§ 90-118.10. *Annual renewal of licenses.*—Since the laws of North Carolina now in force provide for the annual renewal of any license issued by the North Carolina State Board of Examiners in Optometry, it is hereby declared to be the policy of this State, that all licenses heretofore issued by the North Carolina State board of Examiners in Optometry, or hereafter issued by said Board are subject to annual renewal and the exercise of any privilege granted by any license heretofore issued or hereafter issued by the North Carolina State Board of Examiners in Optometry is subject to the issuance on or before the first day of January of each year of a certificate of renewal of license.

On or before the first day of January of each year, each optometrist engaged in the practice of optometry in North Carolina shall make application to the North Carolina State Board of Examiners in Optometry and receive from said Board, subject to the further provisions of this section and of this Article, a certificate of renewal of said license.

The application shall show the serial number of the applicant's license, his full name, address and the county in which he has practiced during the preceding year, the date of the original issuance of license to said applicant and such other information as the said Board from time to time may prescribe by regulation.

If the application for such renewal certificate, accompanied by the fee required by this Article, is not received by the Board before April 1 of each year, an additional fee of ten dollars (\$10.00) shall be charged for renewal certificate. If such application, accompanied by the renewal fee is not received by the Board before March 31 of each year, every person thereafter continuing to practice optometry without having applied for a certificate of renewal shall be guilty of the unauthorized practice of optometry and shall be subject to the penalties prescribed by G.S. 90-118.11."

Sec. 18. There is hereby written a new section to be numbered G.S. 90-118.11 and to read as follows:

"§ 90-118.11. *Unauthorized practice; penalty.*—If any person shall practice or attempt to practice optometry in this State without first having passed the examination and obtained a license from the North Carolina State Board of Examiners in Optometry; or without having obtained a provisional license from said Board; or if he shall practice optometry after March 31 of each year without applying for a certificate of renewal of license, as provided in G.S. 90-118.10; or shall practice or attempt to practice optometry while his license is revoked, or suspended, or when a certificate of renewal of license has been refused, or shall violate any of the provisions of this Article for which no specific penalty has been provided, or shall practice or attempt to practice, optometry in violation of the provisions of this Article; or shall practice optometry under any name other than his own name, said person shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine or imprisonment, or both, in the discretion of the court. Each day's violation of this Article shall constitute a separate offense."

Sec. 19. G.S. 90-120 is rewritten to read as follows:

"§ 90-120. *Board may enjoin illegal practices.*—In view of the fact that the illegal practice of optometry imminently endangers the public health and welfare, and is a public nuisance, the North Carolina State Board of Examiners in Optometry may, if it shall find that any person is violating any of the provisions of this Article, apply to the superior court for a temporary or permanent restraining order or injunction to restrain such person from continuing such illegal practices. If upon such application, it shall appear to the court that such person has violated, or is violating, the provisions of this Article, the court shall issue an order restraining any further violating thereof. All such actions by the Board for injunctive relief shall be governed by the provisions of Article 37 of the Chapter on 'Civil Procedure': Provided, such injunctive relief may be granted regardless of whether criminal prosecution has been or may be instituted under the provisions of G.S. 90-122.1."

Sec. 20. G.S. 90-121 is rewritten to read as follows:

"§ 90-121. *Rules and regulations; discipline, suspension, revocation and regrant of certificate.*—(a) The Board shall have the power to make, adopt, and promulgate such rules and regulations, including rules of ethics, as may be necessary and proper for the regulation of the practice of the profession of optometry and for the performance of its duties. The Board shall have jurisdiction and power to hear and determine all complaints, allegations, charges of malpractice, corrupt or unprofessional conduct, and of the violation of the rules and regulations, including rules of ethics, made against any optometrist licensed to practice in North Carolina. The Board shall also have the power and authority to:

- (i) Refuse to issue a license to practice optometry;
- (ii) Refuse to issue a certificate of renewal of a license to practice optometry;
- (iii) Revoke or suspend a license to practice optometry; and
- (iv) Invoke such other disciplinary measures, censure, or probative terms against a licensee as it deems fit and proper;

in any instance or instances in which the Board is satisfied that such applicant or licensee:

- (1) Has engaged in any act or acts of fraud, deceit or misrepresentation in obtaining or attempting to obtain a license or the renewal thereof;

- (2) Is a chronic or persistent user of intoxicants, drugs or narcotics to the extent that the same impairs his ability to practice optometry;
- (3) Has been convicted of any of the criminal provisions of this Article or has entered a plea of guilty or nolo contendere to any charge or charges arising therefrom;
- (4) Has been convicted of or entered a plea of guilty or nolo contendere to any felony charge or to any misdemeanor charge involving moral turpitude;
- (5) Has been convicted of or entered a plea of guilty or nolo contendere to any charge of violation of any State or federal narcotic or barbiturate law;
- (6) Has engaged in any act or practice violative of any of the provisions of this Article or violative of any of the rules and regulations promulgated and adopted by the Board, or has aided, abetted or assisted any other person or entity in the violation of the same;
- (7) Is mentally, emotionally, or physically unfit to practice optometry or is afflicted with such a physical or mental disability as to be deemed dangerous to the health and welfare of his patients. An adjudication of mental incompetency in a court of competent jurisdiction or a determination thereof by other lawful means shall be conclusive proof of unfitness to practice optometry unless or until such person shall have been subsequently lawfully declared to be mentally competent;
- (8) Has employed or procured any person to obtain or solicit professional patronage or has personally solicited professional patronage;
- (9) Has permitted the use of his name, diploma or license by another person either in the illegal practice of optometry or in attempting to fraudulently obtain a license to practice optometry;
- (10) Has engaged in such immoral conduct as to discredit the optometry profession;
- (11) Has obtained or collected or attempted to obtain or collect any fee through fraud, misrepresentation, or deceit;
- (12) Has been negligent in the practice of optometry;
- (13) Has employed a person not licensed in this State to do or perform any act of service, or has aided, abetted or assisted any such unlicensed person to do or perform any act or service which under this Article can lawfully be done or performed only by an optometrist licensed in this State;
- (14) Is incompetent in the practice of optometry;
- (15) Has practiced any fraud, deceit or misrepresentation upon the public or upon any individual in an effort to acquire or retain any patient or patients;
- (16) Has made fraudulent or misleading statements pertaining to his skill, knowledge, or method of treatment or practice;
- (17) Has committed any fraudulent or misleading acts in the practice of optometry;
- (18) Has, directly or indirectly, advertised in any manner for professional patronage or business; provided, however, that it shall not be considered advertising for an optometrist, duly licensed to practice in this State, to place his name, office address, telephone number, and office hours in an approved register or other publication,

or to place his name, followed by the word, "Optometrist", on the door or window of his office, or to place his name before the public in any other manner expressly approved by the Board;

- (19) Has, in the practice of optometry, committed an act or acts constituting malpractice;
- (20) Has used or permitted another to use his name, as an optometrist, in promoting the sale or advertisement of any product or services;
- (21) Has permitted an optometric assistant in his employ or under his supervision to do or perform any act or acts violative to this Article or of the rules and regulations promulgated by the Board;
- (22) Has wrongfully or fraudulently or falsely held himself out to be or represented himself to be qualified as a specialist in any branch of optometry;
- (23) Has persistently maintained, in the practice of optometry, unsanitary offices, practices, or techniques;
- (24) Is a menace to the public health by reason of having a serious communicable disease;
- (25) Has engaged in any unprofessional conduct as the same may be from time to time defined by the rules and regulations of the Board.

(b) If any person engages in or attempts to engage in the practice of optometry while his license is suspended, his license to practice optometry in the State of North Carolina may be permanently revoked.

(c) The Board may, on its own motion, initiate the appropriate legal proceedings against any person, firm or corporation when it is made to appear to the Board that such person, firm or corporation has violated any of the provisions of this Article.

(d) The Board may appoint, employ or retain an investigator or investigators for the purpose of examining or inquiring into any practices committed in this State that might violate any of the provisions of this Article or any of the rules and regulations promulgated by the Board.

(e) The Board may employ or retain legal counsel for such matters and purposes as may seem fit and proper to said Board.

(f) As used in this section the term 'licensee' includes licensees, provisional licensees and holders of intern permits, and the term 'license' includes license, provisional license and intern permit."

Sec. 21. There is hereby written a new section to be numbered G.S. 90-121.1 and to read as follows:

"§ 90-121.1. *Hearings.*—(a) The Board shall grant any person whose license is affected the right to be heard before the Board, before any of the following action is finally taken, the effect of which would be:

- (1) To deny permission to take an examination for licensing for which application has been duly made; or
- (2) To deny a license after examination for any cause other than failure to pass an examination; or
- (3) To withhold the renewal of a license for any cause other than failure to pay a statutory renewal fee; or
- (4) To suspend a license; or

- (5) To revoke a license; or
- (6) To revoke or suspend a provisional license or an intern permit; or
- (7) To invoke any other disciplinary measures, censure, or probative terms against a licensee, a provisional licensee, or an intern.

(b) Proceedings under this section shall be conducted in accordance with the provisions of Chapter 150 of the General Statutes of North Carolina.

(c) In lieu of or as a part of such hearings and subsequent proceedings the Board is authorized and empowered to enter any consent order relative to the discipline, censure, or probation of a licensee, an intern, or an applicant for a license, or relative to the revocation or suspension of a license, provisional license, or intern permit.

(d) Following the service of the notice of hearing as required by Chapter 150, the Board and the person upon whom such notice is served shall have the right to conduct adverse examinations, take depositions, and engage in such further discovery proceedings as are permitted by the laws of this State in civil matters. The Board is hereby authorized and empowered to issue such orders, commissions, notices, subpoenas, or other process as might be necessary or proper to effect the purposes of this subsection; provided, however, that no member of the Board shall be subject to examination hereunder."

Sec. 22. There is hereby written a new section to be numbered G.S. 90-121.2 and to read as follows:

"§ 90-121.2. *Restoration of revoked license.*—Whenever any optometrist has been deprived of his license, the North Carolina State Board of Examiners in Optometry in its discretion, may restore said license upon due notice being given and hearing had, and satisfactory evidence produced or proper reformation of the licentiate, before restoration."

Sec. 23. G.S. 90-122 is rewritten to read as follows:

"§ 90-122. *Compensation and expenses of Board.*—Each member of the North Carolina State Board of Examiners in Optometry shall receive as compensation for his services in the performance of his duties under this Article a sum not exceeding twenty dollars (\$20.00) for each day actually engaged in the performance of the duties of his office, said per diem to be fixed by said Board, and all legitimate and necessary expenses incurred in attending meetings of the said Board.

The secretary-treasurer shall, as compensation for his services, both as secretary-treasurer of the Board and a member thereof, be allowed a reasonable annual salary to be fixed by the Board and shall, in addition thereto, receive all legitimate and necessary expenses incurred by him in attending meetings of the Board and in the discharge of the duties of his office.

All per diem allowances and all expenses paid as herein provided shall be paid upon voucher drawn by the secretary-treasurer of the Board who shall likewise draw voucher payable to himself for the salary fixed for him by the Board.

The Board is authorized and empowered to expend from funds collected hereunder such additional sum or sums as it may determine necessary in the administration and enforcement of this Article, and employ such personnel as it may deem requisite to assist in carrying out the administrative functions required by this Article and by the Board."

Sec. 24. There is hereby written a new section to be numbered G.S. 90-122.1 and to read as follows:

"§ 90-122.1. *Rules and regulations of Board; violation a misdemeanor.*—Rules and regulations adopted by the Board shall become effective 30 days after passage, and the same may be proven, as evidence, by the president and/or the secretary-treasurer of the Board, and/or by certified copy under the hand and seal of the secretary-treasurer. A certified copy of any rule or regulation shall be receivable in all courts as prima facie evidence thereof if otherwise competent, and any person, firm, or corporation violating any such rule or regulation shall be guilty of a misdemeanor, subject to a fine of not more than two hundred dollars (\$200.00) or imprisonment for not more than 90 days for each offense, and each day that this section is violated shall be considered a separate offense.

The Board shall issue every two years to each licensed optometrist a compilation or supplement of the Optometric Practice Act and the Board Rules and Regulations, and upon written request by such licensed optometrist, a directory of optometrists."

Sec. 25. G.S. 90-124 is rewritten to read as follows:

"§ 90-124. *Free choice by patient guaranteed.*—No agency of the State, county or municipality, nor any commission or clinic, nor any board administering relief, social security, health insurance or health service under the laws of the State of North Carolina shall deny to the recipients or beneficiaries of their aid or services the freedom to choose a duly licensed optometrist or duly licensed physician as the provider of care or services which are within the scope of practice of the profession of optometry as defined in this Chapter."

Sec. 26. The following sections as they now appear in Volume 2C of the General Statutes of North Carolina are hereby repealed, to wit: G.S. 90-126; G.S. 90-126.1; G.S. 90-127.1; and G.S. 90-128.

Sec. 27. This act shall be in full force and effect on July 1, 1973.

In the General Assembly read three times and ratified, this the 24th day of May, 1973.

S. B. 852

CHAPTER 801

AN ACT TO CREATE A CRIME STUDY COMMISSION.

Whereas, the subject of crime is a concern of paramount importance to the people of North Carolina; and

Whereas, the Senate, on February 23, 1973, adopted a resolution supporting an in-depth study of proposed legislation designed to provide deterrents to crime, including bills regularly regarding capital punishment and other law enforcement and crime prevention measures designed to contribute to the public safety; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Chapter 143 of the General Statutes of North Carolina is hereby amended by adding at the end thereof a new Article 55, to read:

"Article 55.

"Crime Study Commission.

"§ 143-483. *Crime Study Commission created.*—There is hereby created a commission to be known as the Crime Study Commission for the study of legislation designed to reduce crime in North Carolina, to be composed of nine members who shall be appointed not later than July 1, 1973, for a two-year term as follows: Three members shall be appointed by the Governor, three members

shall be appointed by the President of the Senate, and three members shall be appointed by the Speaker of the House. The subsequent appointments shall be for terms to commence on July 1 of the year in which appointed, and each member shall serve until his successor is appointed and qualifies. Appointees shall be members or former members of the North Carolina General Assembly.

“§ 143-484. *Duties of commission.*—It shall be the duty of the commission to pursue an in-depth study of existing and proposed legislation designed to contribute to the public safety by the reduction of crime in North Carolina, giving particular emphasis to:

(1) Collecting and reviewing existing legislation in North Carolina designed to reduce crime; as well as pertinent crime information reports, studies and findings in the field of crime from other states and national bodies.

(2) Collecting and reviewing information on the North Carolina Criminal Justice System including law enforcement, courts, and corrections with a view towards relating them to the concerns and needs of North Carolina in crime reduction.

(3) Studying and coordinating the reports and recommendations of the various agencies, councils, commissions, committees, and associations existing in North Carolina whose primary or partial duties are to make recommendations designed to affect the Criminal Justice System. The commission shall make specific recommendations towards the goals enumerated in this section.

“§ 143-485. *Organization of commission.*—Upon its appointment, the commission shall organize by electing from its membership a chairman. The commission shall meet at such times and places as the chairman shall designate. The facilities of the State Legislative Building shall be available to the commission. On request of the chairman, the Director of the Department of Administration shall make available to the commission and its staff suitable office space and meeting facilities. The commission is authorized to conduct hearings and to employ such clerical and other assistance, professional advice and services as may be deemed necessary in the performance of its duties.

“§ 143-486. *Members to serve without compensation; subsistence and travel expenses.*—Members of the commission shall serve without compensation but they shall be paid such per diem and travel expenses as are provided for members of State boards and commissions generally pursuant to G.S. 138-5.

“§ 143-487. *Assistance to the commission.*—The commission, in the performance of its duties, may request and shall receive from every department, board, bureau, agency, commission, or institution of this State, or from any political subdivision of the State, information, cooperation, and assistance.

“§ 143-488. *Reports to the General Assembly.*—The commission shall make a report to the General Assembly containing its findings and recommendations not later than February 1, 1974, and annually thereafter.”

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of May, 1973.

H. B. 154

CHAPTER 802

AN ACT TO INCREASE THE MINIMUM WAGE TO ONE DOLLAR AND EIGHTY CENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 95-87, as the same appears in the 1971 Cumulative Supplement of Volume 2C of the General Statutes is hereby amended and rewritten as follows:

“§ 95-87. *Minimum wages.*—Every employer shall pay to each of his employees wages at a rate not less than one dollar and eighty cents (\$1.80) per hour. This section shall not apply to part-time employees who work 16 hours or less per week if the establishment where such part-time employees are employed has three or less full-time employees at any one time.”

Sec. 2. This act shall become effective September 2, 1973.

In the General Assembly read three times and ratified, this the 24th day of May, 1973.

H. B. 333

CHAPTER 803

AN ACT IMPLEMENTING ARTICLE V, SECTION 2(5) OF THE CONSTITUTION OF NORTH CAROLINA WITH RESPECT TO THE LEVY OF PROPERTY TAXES BY COUNTIES, CITIES, AND OTHER UNITS OF LOCAL GOVERNMENT.

The General Assembly of North Carolina enacts:

Section 1. Article 8 of Chapter 153 of the General Statutes is amended by inserting a new section therein as follows:

“§ 153-65. *Property taxes; authorized purposes; rate limitation.*—(a) Pursuant to Article V, § 2(5) of the Constitution of North Carolina, the General Assembly confers upon each county in this State the power to levy, within the limitations set out in this section, taxes on property having a situs within the county under the rules and according to the procedures prescribed in the Machinery Act (G.S. Chapter 105, Subchapter II).

(b) Each county may levy property taxes without restriction as to rate or amount for the following purposes:

- (1) Courts. To provide adequate facilities for and the county's share of the cost of operating the General Court of Justice in the county.
- (2) Debt Service. To pay the principal of and interest on all general obligation bonds and notes of the county.
- (3) Deficits. To supply an unforeseen deficiency in the revenue (other than revenues of public enterprises), when revenues actually collected or received fall below revenue estimates made in good faith and in accordance with the Local Government Budget and Fiscal Control Act.
- (4) Elections. To provide for all federal, State, district and county elections.
- (5) Jails. To provide for the operation of a jail and other local confinement facilities.
- (6) Joint Undertakings. To cooperate with any other county, city, or

political subdivision in providing any of the functions, services, or activities listed in this subsection.

(7) Schools. To provide for the county's share of the cost of kindergarten, elementary, secondary, and post-secondary public education.

(8) Social Services. To provide for public assistance required by Chapters 108 and 111 of the General Statutes.

(c) Each county may levy property taxes for one or more of the purposes listed in this subsection up to an effective combined rate of one dollar and fifty cents (\$1.50) on the one hundred dollars (\$100.00) appraised value of property subject to taxation before the application of any assessment ratio. To find the actual rate limit for a particular county, divide the effective rate limit of one dollar and fifty cents (\$1.50) by the county assessment ratio. Authorized purposes subject to the rate limitation are:

(1) To provide for the general administration of the county through the board of county commissioners, the office of the county manager, the office of the county budget officer, the office of the county finance officer, the office of the county tax supervisor, the office of the county tax collector, the county purchasing agent, and the county attorney, and for all other general administrative costs not allocated to a particular board, commission, office, agency, or activity of the county.

(2) Agricultural Extension. To provide for the county's share of the cost of maintaining and administering programs and services offered to agriculture by or through the Agricultural Extension Service or other agencies.

(3) Air Pollution. To maintain and administer air pollution control programs.

(4) Airports. To establish and maintain airports and related aeronautical facilities.

(5) Ambulance Service. To provide ambulance services, rescue squads, and other emergency medical services.

(6) Animal Protection and Control. To provide animal protection and control programs.

(7) Beach Erosion and Natural Disasters. To provide for shoreline protection, beach erosion control, and flood and hurricane protection.

(8) Cemeteries. To provide for cemeteries.

(9) Civil Defense. To provide for civil defense programs.

(10) Debts and Judgments. To pay and discharge any valid debt of the county or any judgment lodged against it, other than debts and judgments evidenced by or based on bonds and notes.

(11) Fire Protection. To provide fire protection services and fire prevention programs.

(12) Forest Protection. To provide forest management and protection programs.

(13) Health. To provide for the county's share of maintaining and administering services offered by or through the county or district health department.

(14) Historic Preservation. To undertake historic preservation programs and projects.

(15) Hospitals. To establish, support and maintain public hospitals and clinics, and other related health programs and facility, or to aid any

private, non-profit hospital, clinic, related facilities, or other health program or facility.

- (16) Human Relations. To undertake human relations programs.
- (17) Joint Undertakings. To cooperate with any other county, city, or political subdivision in providing any of the functions, services, or activities listed in this subsection.
- (18) Law Enforcement. To provide for the operation of the office of the sheriff of the county and for any other county law enforcement agency not under the sheriff's jurisdiction.
- (19) Libraries. To establish and maintain public libraries.
- (20) Mapping. To provide for mapping the lands of the county.
- (21) Medical Examiner. To provide for the county medical examiner or coroner.
- (22) Mental Health. To provide for the county's share of the cost of maintaining and administering services offered by or through the county or area mental health department.
- (23) Open Space. To acquire open space land and easements in accordance with Article 19, Part 4, Chapter 160A of the General Statutes.
- (24) Parking. To provide off-street lots and garages for the parking and storage of motor vehicles.
- (25) Parks and Recreation. To establish, support and maintain public parks and programs of supervised recreation.
- (26) Planning. To provide for a program of planning and regulation of development in accordance with Article 17 of this chapter and Article 19, Parts 3A and 6, of Chapter 160A of the General Statutes.
- (27) Ports and Harbors. To participate in programs with the North Carolina Ports Authority and to provide for harbor masters.
- (28) Register of Deeds. To provide for the operation of the office of the register of deeds of the county.
- (29) Sewage. To provide sewage collection and treatment services.
- (30) Social Services. To provide for the public welfare through the maintenance and administration of public assistance programs not required by Chapters 108 and 111 of the General Statutes, and by establishing and maintaining a county home.
- (31) Solid Waste. To provide solid waste collection and disposal services, and to acquire and operate landfills.
- (32) Surveyor. To provide for a county surveyor.
- (33) Veterans' Service Officer. To provide for the county's share of the cost of services offered by or through the county Veterans' Service Officer.
- (34) Water. To provide water supply and distribution systems.
- (35) Watershed Improvement. To undertake watershed improvement projects.
- (36) Water Resources. To participate in federal water resources development projects.

(d) With an approving vote of the people, any county may levy property taxes for any purpose for which the county is authorized by law to appropriate money. Any property tax levy approved by a vote of the people shall not be counted for purposes of the rate limitation imposed in subsection (c).

The county commissioners may call a referendum on approval of a property tax levy. The referendum may be held at the same time as any other referendum

or election, but may not be otherwise held within the period of time beginning 30 days before and ending 10 days after any other referendum or election to be held in the county and already validly called or scheduled by law at the time the tax referendum is called. The referendum shall be conducted by the county board of elections. The clerk to the board of commissioners shall publish a notice of the referendum at least twice. The first publication shall be not less than 14 days and the second publication not less than seven days before the last day on which voters may register for the referendum. The notice shall state the date of the referendum, the purpose for which it is being held, and a statement as to the last day for registration for the referendum under the election laws then in effect.

The proposition submitted to the voters shall be substantially in one of the following forms:

- (1) Shall _____ County be authorized to levy annually a property tax at an effective rate not in excess of ____ cents on the one hundred dollars value of property subject to taxation for the purpose of _____?
- (2) Shall _____ County be authorized to levy annually a property tax at a rate not in excess of that which will produce \$_____ for the purpose of _____?
- (3) Shall _____ County be authorized to levy annually a property tax without restriction as to rate or amount for the purpose of _____?

If a majority of those participating in the referendum approve the proposition, the board of commissioners may proceed to levy annually a property tax within the limitations (if any) described in the proposition.

The board of elections shall canvass the referendum and certify the results to the board of commissioners. The board of commissioners shall then certify and declare the result of the referendum and shall publish a statement of the result once, with the following statement appended: 'Any action or proceeding challenging the regularity or validity of this tax referendum must be begun within 30 days after (date of publication).' The statement of results shall be filed in the clerk's office and inserted in the minutes of the board.

Any action or proceeding in any court challenging the regularity or validity of a tax referendum must be begun within 30 days after the publication of the results of the referendum. After the expiration of this period of limitation, no right of action or defense based upon the invalidity of or any irregularity in the referendum shall be asserted, nor shall the validity of the referendum be open to question in any court upon any ground whatever, except in an action or proceeding begun within the period of limitation prescribed herein.

Except for supplemental school taxes and except for tax referendums on functions not included in subsection (c) of this section, any referendum held before July 1, 1973, on the levy of property taxes is not valid for the purposes of this subsection. Counties in which such referendums have been held may support programs formerly supported by voted property taxes within the general rate limitation set out in subsection (d) at any appropriate level and are not subject to the former voted rate limitation.

(e) With an approving vote of the people, any county may increase the property tax rate limitation imposed in subsection (c) and may call a referendum for that purpose. The referendum may be held at the same time as

any other referendum or election, but may not be otherwise held within the period of time beginning 30 days before and ending 30 days after any other referendum or election. The referendum shall be conducted by the county board of elections.

The proposition submitted to the voters shall be substantially in the following form:

Shall the effective property rate limitation applicable to _____ County be increased from _____ on the one hundred dollars (\$100.00) value of property subject to taxation to _____ on the one hundred dollars (\$100.00) value of property subject to taxation?

If a majority of those participating in the referendum approve the proposition, the rate limitation imposed in subsection (c) shall be increased for the county.

(f) With respect to any of the categories listed in subsections (b) and (c) of this section, the county may provide the necessary personnel, land, buildings, equipment, supplies, and financial support from property tax revenues for the program, function, or service.

(g) This section does not authorize any county to undertake any program, function, joint undertaking, or service not otherwise authorized by law. It is intended only to authorize the levy of property taxes within the limitations set out herein to finance programs, functions, or services authorized by other portions of the General Statutes or by local acts."

Sec. 2. G.S. 160A-209 is rewritten as follows:

"§ 160A-209. *Property taxes.*—(a) Pursuant to Article V, § 2(5) of the Constitution of North Carolina, the General Assembly confers upon each city in this State the power to levy, within the limitations set out in this section, taxes on property having a situs within the city under the rules and according to the procedures prescribed in the Machinery Act (G.S. Chapter 105, Subchapter II).

(b) Each city may levy property taxes without restriction as to rate or amount for the following purposes:

- (1) Debt Service. To pay the principal of and interest on all general obligation bonds and notes of the city.
- (2) Deficits. To supply an unforeseen deficiency in the revenue (other than revenues of any of the enterprises listed in § 160A-311), when revenues actually collected or received fall below revenue estimates made in good faith in accordance with the Local Government Budget and Fiscal Control Act.
- (3) Civil Disorders. To meet the cost of additional law enforcement personnel and equipment that may be required to suppress riots or other civil disorders involving an extraordinary breach of law and order within the jurisdiction of the city.

(c) Each city may levy property taxes for one or more of the following purposes subject to the rate limitation set out in subsection (d):

- (1) Administration. To provide for the general administration of the city through the city council, the office of the city manager, the office of the city budget officer, the office of the city finance officer, the office of the city tax collector, the city purchasing agent, the city attorney, and for all

other general administrative costs not allocated to a particular board, commission, office, agency, or activity.

- (2) Air Pollution. To maintain and administer air pollution control programs.
- (3) Airports. To establish and maintain airports and related aeronautical facilities.
- (4) Ambulance Service. To provide ambulance services, rescue squads, and other emergency medical services.
- (5) Animal Protection and Control. To provide animal protection and control programs.
- (6) Auditoriums, Coliseums, and Convention Centers. To provide public auditoriums, coliseums, and convention centers.
- (7) Beach Erosion and Natural Disasters. To provide for shoreline protection, beach erosion control and flood and hurricane protection.
- (8) Cemeteries. To provide for cemeteries.
- (9) Civil Defense. To provide for civil defense programs.
- (10) Debts and Judgments. To pay and discharge any valid debt of the city or any judgment lodged against it, other than debts or judgments evidenced by or based on bonds or notes.
- (11) Elections. To provide for all city elections and referendums.
- (12) Electric Power. To provide electric power generation, transmission, and distribution services.
- (13) Fire Protection. To provide fire protection services and fire prevention programs.
- (14) Gas. To provide natural gas transmission and distribution services.
- (15) Historic Preservation. To undertake historic preservation programs and projects.
- (16) Human Relations. To undertake human relations programs.
- (17) Hospitals. To establish, support and maintain public hospitals and clinics, and other related health programs and facilities, and to aid any private, non-profit hospital, clinic, related facility, or other health program or facility.
- (18) Jails. To provide for the operation of a jail and other local confinement facilities.
- (19) Joint Undertakings. To cooperate with any other county, city, or political subdivision of the State in providing any of the functions, services, or activities listed in this subsection.
- (20) Libraries. To establish and maintain public libraries.
- (21) Mosquito Control.
- (22) Off-Street Parking. To provide off-street lots and garages for the parking and storage of motor vehicles.
- (23) Open Space. To acquire open space land and easements in accordance with Article 19, Part 4, of this chapter.
- (24) Parks and Recreation. To establish, support and maintain public parks and programs of supervised recreation.
- (25) Planning. To provide for a program of planning and regulation of development in accordance with Article 19 of this chapter.

- (26) Police. To provide for law enforcement.
- (27) Ports and Harbors. To participate in programs with the North Carolina Ports Authority and to provide for harbor masters.
- (28) Sewage. To provide sewage collection and treatment services.
- (29) Solid Waste. To provide solid waste collection and disposal services, and to acquire and operate landfills.
- (30) Streets. To provide for the public streets, sidewalks, and bridges of the city.
- (31) Traffic Control and On-Street Parking. To provide for the regulation of vehicular and pedestrian traffic within the city, and for the parking of motor vehicles on the public streets.
- (32) Water. To provide water supply and distribution services.
- (33) Water Resources. To participate in federal water resources development projects.
- (34) Watershed Improvement. To undertake watershed improvement projects.

(d) Property taxes may be levied for one or more of the purposes listed in subsection (c) up to a combined effective rate of one dollar and fifty cents (\$1.50) on the one hundred dollars (\$100.00) appraised value of property subject to taxation before the application of any assessment ratio. To find the actual rate limit for a particular city, divide the effective rate limit of one dollar and fifty cents (\$1.50) by the county assessment ratio.

(e) With an approving vote of the people, any city may levy property taxes for any purpose for which the city is authorized by its charter or general law to appropriate money. Any property tax levy approved by a vote of the people shall not be counted for purposes of the rate limitation imposed in subsection (d).

The city council may call a referendum on approval of a property tax levy. The referendum may be held at the same time as any other city referendum or city election, but may not be otherwise held (i) on the day of any federal, State, district, or county election already validly called or scheduled by law at the time the tax referendum is called, or (ii) within the period of time beginning 30 days before and ending 10 days after the day of any other city referendum or city election already validly called or scheduled by law at the time the tax referendum is called. The referendum shall be conducted by the same board of elections that conducts regular city elections. The city clerk shall publish a notice of the referendum at least twice. The first publication shall be not less than 14 days and the second publication not less than seven days before the last day on which voters may register for the referendum. The notice shall state the date of the referendum, the purpose for which it is being held, and a statement as to the last day for registration for the referendum under the election laws then in effect.

The proposition submitted to the voters shall be substantially in one of the following forms:

- (1) Shall the City/Town of _____ be authorized to levy annually a property tax at an effective rate not in excess of _____ cents on the one hundred dollars (\$100.00) value of property subject to taxation for the purpose of _____?
- (2) Shall the City/Town of _____ be authorized to levy

annually a property tax at a rate not in excess of that which will produce \$_____ for the purpose of _____?

- (3) Shall the City/Town of _____ be authorized to levy annually a property tax without restriction as to rate or amount for the purpose of _____?

If a majority of those participating in the referendum approve the proposition, the city council may proceed to levy annually a property tax within the limitations (if any) described in the proposition. Unless otherwise provided in the proposition submitted to the voters, a vote on a property tax levy not to exceed a specified rate per one hundred dollars (\$100.00) value of property subject to taxation is a vote on an effective rate per one hundred dollars (\$100.00) of appraised value of property before the application of any assessment ratio.

The board of elections shall canvass the referendum and certify the results to the city council. The council shall then certify and declare the result of the referendum and shall publish a statement of the result once, with the following statement appended: 'Any action or proceeding challenging the regularity or validity of this tax referendum must be begun within 30 days after (date of publication).' The statement of results shall be filed in the clerk's office and inserted in the minutes of the council.

Any action or proceeding in any court challenging the regularity or validity of a tax referendum must be begun within 30 days after the publication of the results of the referendum. After the expiration of this period of limitation, no right of action or defense based upon the invalidity of or any irregularity in the referendum shall be asserted, nor shall the validity of the referendum be open to question in any court upon any ground whatever, except in an action or proceeding begun within the period of limitation prescribed herein.

Except for tax referendums on functions not included in subsection (c) of this section, any referendum held before July 1, 1973, on the levy of property taxes is not valid for the purposes of this subsection. Cities in which such referendums have been held may support programs formerly supported by voted property taxes within the general rate limitation set out in subsection (d) at any appropriate level and are not subject to the former voted rate limitation.

(f) With an approving vote of the people, any city may increase the property tax rate limitation imposed in subsection (c) and may call a referendum for that purpose. The referendum may be held at the same time as any other city referendum or election, but may not be otherwise held (i) on the day of any federal, State, district, or county election, or (ii) within the period of time beginning 30 days before and ending 30 days after the day of any other city referendum or city election. The election shall be conducted by the same board of elections that conducts regular city elections.

The proposition submitted to the voters shall be substantially in the following form:

Shall the effective property rate limitation applicable to the City/Town of _____ be increased from _____ on the one hundred dollars (\$100.00) value of property subject to taxation to _____ on the one hundred dollars (\$100.00) value of property subject to taxation?

If a majority of those participating in the referendum approve the proposition, the rate limitation imposed in subsection (c) shall be increased for the city.

(g) With respect to any of the categories listed in subsection (b) and (c) of this section, the city may provide the necessary personnel, land, buildings, equipment, supplies, and financial support from property tax revenues for the program, function, or service.

(h) This section does not authorize any city to undertake any program, function, joint undertaking, or service not otherwise authorized by law. It is intended only to authorize the levy of property taxes within the limitations set out herein to finance programs, functions, or services authorized by other portions of the General Statutes or by city charters."

Sec. 3. G.S. 63-8.1 is repealed.

Sec. 4. Chapter 69 of the General Statutes is amended by inserting a new section therein as follows:

"§ 69-24.1. *Local appropriations.*—Each county and municipality is authorized to make appropriations for the purposes of this article and to fund them by levy of property taxes pursuant to G.S. 153-65 and G.S. 160A-209 and by the allocation of other revenues whose use is not otherwise restricted by law. Sanitary districts are authorized to make appropriations for the purposes of this article and to fund them by annual levy of a tax on property having a situs in the district under the rules and according to the procedures prescribed in the Machinery Act (G.S. chapter 105, Subchapter II) and by the allocation of other revenues whose use is not otherwise restricted by law."

Sec. 5. G.S. 69-21 is amended by striking out the second sentence.

Sec. 6. G.S. 104B-4(b) is amended by striking out the words "whose county includes a portion of the outer banks of this State" in the first sentence.

Sec. 7. G.S. 104B-6(a) is amended by striking out the words "whose area includes a portion of the area subject to this article" in the first sentence.

Sec. 8. G.S. 104B-6(b) is amended by striking out the third sentence.

Sec. 9. G.S. 104B-9(b) is rewritten to read as follows: "Each county is authorized to make appropriations for the purposes of this article and to fund them by levy of property taxes pursuant to G.S. 153-65 and by the allocation of other revenues whose use is not otherwise restricted by law."

Sec. 10. G.S. 106-587 is rewritten to read as follows:

"§ 106-587. *Local appropriations.*—Each county and city in this State is authorized to make appropriations for the purposes of this article and to fund them by levy of property taxes pursuant to G.S. 153-65 and G.S. 160A-209 and by the allocation of other revenues whose use is not otherwise restricted by law."

Sec. 11. The second paragraph, second, third and fourth sentences of G.S. 111-17 are rewritten to read as follows: "Each county shall make appropriations for the purposes of this article in an amount sufficient to cover its share of aid to the blind and may fund them by levy of property taxes pursuant to G.S. 153-65 and by the allocation of other revenues whose use is not otherwise restricted by law. This provision is mandatory on each county in the State."

Sec. 12. G.S. 127-113 is rewritten to read as follows:

"§ 127-113. *Local financial support.*—Each county and city in this State is authorized to make appropriations for the purposes of this article and to fund them by levy of property taxes pursuant to G.S. 153-65 and G.S. 160A-209 and by the allocation of other revenues whose use is not otherwise restricted by law."

Sec. 13. G.S. 127-114 is repealed.

Sec. 14. G.S. 127-115 is repealed.

Sec. 15. G.S. 127-116 is repealed.

Sec. 16. G.S. 128-23(b) is rewritten to read as follows:

“(b) Pursuant to the favorable vote of a majority of the employees of the county, the board of commissioners of any county may, by resolution legally adopted and approved by the Board of Trustees, elect to have its employees become eligible to participate in the Retirement System. Each county is authorized to make appropriations for these purposes and to fund them by levy of property taxes pursuant to G.S. 153-65 and by the allocation of other revenues whose use is not otherwise restricted by law.”

Sec. 17. G.S. 130-155 is rewritten to read as follows:

“§ 130-155. *Tax levy for validated bonds.*—Sanitary districts are authorized to make appropriations and to levy annually a tax on property having a situs in the district under the rules and according to the procedure prescribed in the Machinery Act (G.S. Chapter 105, Subchapter II) for the purpose of paying the principal of and interest on bonds validated in G.S. 130-154. Such tax shall be sufficient for such purpose and shall be in addition to all other taxes which may be levied upon the taxable property in the sanitary district.”

Sec. 18. The fifth sentence of G.S. 131-28.2 is repealed.

Sec. 19. G.S. 131-28.4 is rewritten to read as follows:

“§ 131-28.4. *Issuance of bonds.*—A county may issue bonds under the Local Government Finance Act for the purpose of erecting, remodeling, enlarging or purchasing hospitals, including the acquisition of necessary land and equipment.”

Sec. 20. G.S. 131-28.5 is rewritten to read as follows:

“§ 131-28.5. *County financial support.*—Each county in this State is authorized to make appropriations for the purposes of maintenance of hospital or hospitals from year to year and to fund the appropriations by levy of property taxes pursuant to G.S. 153-65 and by the allocation of other revenues whose use is not otherwise restricted by law.”

Sec. 21. G.S. 131-28.6 is repealed.

Sec. 22. G.S. 131-28.7 is repealed.

Sec. 23. The first sentence of G.S. 131-28.8 is rewritten to read as follows: “Each county in this State, upon conveyance to it of any hospital pursuant to the requirements of this article, shall proceed at once to appoint county citizens to serve upon a board of hospital trustees. The board shall consist of three trustees from each township in which a hospital or hospitals are to be acquired or erected hereunder and one trustee from each of the remaining townships in the county. These trustees are to be chosen with special reference to their fitness for such office.”

Sec. 24. G.S. 131-28.23 is rewritten to read as follows:

“§ 131-28.23. *County-city hospital facilities for the poor.*—Authority is hereby granted to the board of commissioners of any county in the State now or hereafter having a population of 100,000 or over and a city within its borders now or hereafter having a population of 75,000 or over to provide adequate hospital facilities for the care of the sick and afflicted poor of such county. Each such county is authorized to make appropriations for the purposes of this article and to fund them by levy of property taxes pursuant to G.S. 153-65 and by the allocation of other revenues whose use is not otherwise prohibited by law. The term ‘board of aldermen,’ as used in this article shall be deemed to include any

governing body of any municipality coming within the provisions of this article by whatever name designated.”

Sec. 25. The first, second, and third sentences of G.S. 131-28.28 are repealed.

Sec. 26. G.S. 131-126.22 is rewritten to read as follows:

“§ 131-126.22 *Financing hospital facilities.*—(a) Each county or municipality in this State is authorized to make appropriations for the purposes of this article and to fund them by levy of property taxes pursuant to G.S. 153-65 and G.S. 160A-209 and by the allocation of other revenues whose use is not otherwise restricted by law. Hospital districts are authorized to make appropriations and to levy annually a tax on property having a situs in the district under the rules and according to the procedures prescribed in the Machinery Act (G.S. Chapter 105, Subchapter II) for the purposes of this article.

(b) Each municipality is authorized to issue bonds and notes for the purposes of this article pursuant to the Local Government Finance Act.”

Sec. 27. G.S. 131-126.23 is repealed.

Sec. 28. G.S. 131-126.26 is repealed.

Sec. 29. G.S. 131-126.41 is rewritten to read as follows:

“§ 131-126.41. *Supplementary financing of hospital facilities.*—(a) Each county or city in this State is authorized to make appropriations for the purposes of aiding in construction or financing the costs of equipment and maintenance of any hospital facility and to fund the appropriations by levy of property taxes pursuant to G.S. 153-65 and G.S. 160A-209 and by the allocation of other revenues whose use is not otherwise restricted by law.

(b) Each county or city is authorized to issue bonds and notes for the purposes of this article pursuant to the Local Government Bond Act.”

Sec. 30. G.S. 131-126.42 is repealed.

Sec. 31. G.S. 131-126.43 is repealed.

Sec. 32. G.S. 131-126.44 is renumbered G.S. 131-126.42.

Sec. 33. The second paragraph of G.S. 139-37(b) is rewritten to read as follows: “Each county and city may fund appropriations for the purposes of this section by levy of property taxes pursuant to G.S. 153-65 and G.S. 160A-209 and by the allocation of other revenues whose use is not otherwise restricted by law.”

Sec. 34. G.S. 97-7 is rewritten to read as follows:

“§ 97-7. *State or subdivision and employees thereof.*—Neither the State nor any municipal corporation within the State, nor any political subdivision thereof, nor any employee of the State or of any such corporation or subdivision, shall have the right to reject the provisions of this article relative to payment and acceptance of compensation, and the provisions of G.S. 97-4, 97-5, 97-14, 97-15, 97-16, and 97-100(j) shall not apply to them: Provided, that all such corporations or subdivisions are hereby authorized to self-insure or purchase insurance to secure its liability under this article and to include thereunder the liability of such subordinate governmental agencies as the county board of health, the school board, and other political and quasi-political subdivisions supported in whole or in part by the municipal corporation or political subdivision of the State. Each municipality is authorized to make appropriations for these purposes and to fund them by levy of property taxes pursuant to G.S. 153-65 and G.S. 160A-209 and by the allocation of other revenues whose use is not otherwise restricted by law.”

Sec. 35. The third unnumbered paragraph of G.S. 122-35.1 is rewritten to read as follows: "The governing authorities of local governmental units are authorized to appropriate funds for the support or partial support of mental health clinics which serve such localities whether or not the facilities of the clinic are physically located within the boundaries of such municipalities or counties, and whether or not such clinics are owned and operated by the local governmental units. Each county and municipality is authorized to make appropriations for the purposes of this article and to fund them by levy of property taxes pursuant to G.S. 153-65 and G.S. 160A-209 and by the allocation of other revenues whose use is not otherwise restricted by law."

Sec. 36. G.S. 161-25 is repealed.

Sec. 37. G.S. 158-1 is rewritten to read as follows:

"§ 158-1. *Local development.*—Each county and city in this State is authorized to make appropriations for the purposes of aiding and encouraging the location of manufacturing enterprises, making industrial surveys and locating industrial and commercial plants in or near such city or in the county; encouraging the building of railroads or other purposes which, in the discretion of the governing body of the city or of the county commissioners of the county, will increase the population, taxable property, agricultural industries and business prospects of any city or county. These appropriations may be funded by levy of property taxes pursuant to G.S. 153-65 and 160A-209 and by the allocation of other revenues whose use is not otherwise restricted by law."

Sec. 38. G.S. 158-2 is rewritten to read as follows:

"§ 158-2. *Accounting for expenditures.*—In the event funds appropriated for the purposes of this article are turned over to any agency or organization other than the county or city for expenditure, no such expenditure shall be made until the county or city has approved the same, and all such expenditures shall be accounted for by the agency or organization at the end of the fiscal year for which they were appropriated."

Sec. 39. G.S. 158-3 is repealed.

Sec. 40. G.S. 158-4 is repealed.

Sec. 41. G.S. 158-5 is repealed.

Sec. 42. G.S. 158-6 is repealed.

Sec. 43. G.S. 158-7 is repealed.

Sec. 44. The second unnumbered paragraph of G.S. 158-12 is rewritten to read as follows: "Each municipality or county shall have authority to appropriate funds to any local or regional economic development commission which it may have created. These appropriations may be funded by levy of property taxes pursuant to G.S. 153-65 and G.S. 160A-209 and by the allocation of other revenues whose use is not otherwise restricted by law."

The third unnumbered paragraph of G.S. 148-12 is repealed.

Sec. 45. Paragraph (a) of G.S. 166-10 is rewritten to read as follows:

"(a) Each county and city in this State is authorized to make appropriations for the purposes of this chapter and to fund them by levy of property taxes pursuant to G.S. 153-65 and G.S. 160A-209 and by the allocation of other revenues whose use is not otherwise restricted by law."

Sec. 46. G.S. 130-21 is rewritten to read as follows:

"§ 130-21. *Local appropriations.*—Each county and city in this State is authorized to make appropriations for the purposes of this article and to fund them by levy of property taxes pursuant to G.S. 153-65 and by G.S. 160A-209

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and by the allocation of other revenues whose use is not otherwise restricted by law."

Sec. 47. G.S. 130-22 is repealed.

Sec. 48. This act shall become effective on July 1, 1973.

In the General Assembly read three times and ratified, this the 24th day of May, 1973.

S. B. 853

CHAPTER 804

AN ACT TO APPROPRIATE THE SUM OF FIFTY THOUSAND DOLLARS (\$50,000) TO THE CRIME STUDY COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund of the State of North Carolina the sum of twenty-five thousand dollars (\$25,000) to the Crime Study Commission for the 1973-1974 fiscal year for the purpose of paying reasonable expenses of the commission and its staff.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of May, 1973.

S. B. 893

CHAPTER 805

AN ACT TO TRANSFER CERTAIN FUNCTIONS OF THE MURDOCH CENTER MENTAL RETARDATION TRAINING INSTITUTE TO THE DEVELOPMENTAL DISABILITIES TRAINING INSTITUTE AT THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL.

Whereas, Murdoch Center has heretofore contracted with the Developmental Disabilities Training Institute at the University of North Carolina at Chapel Hill for the purpose of training persons to work with the mentally retarded; and

Whereas, it would be in the best interest of the State that the functions heretofore carried out pursuant to such contracts be assigned to the responsibility of the Developmental Disabilities Training Institute at the University of North Carolina at Chapel Hill; and

Whereas, funds necessary for the continuation of such training programs should be transferred from Murdoch Center to the University of North Carolina at Chapel Hill; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The services heretofore furnished by the Developmental Disabilities Training Institute at the University of North Carolina at Chapel Hill to Murdoch Center under contract for the training of persons for work with the mentally retarded are hereby transferred to the Developmental Disabilities Training Institute at the University of North Carolina at Chapel Hill.

Sec. 2. The base budget for Murdoch Center, Code 24095, is decreased by the amount of sixty thousand seven hundred sixty-eight dollars (\$60,768). The base budget for the University of North Carolina at Chapel Hill, Code 18121, is increased by the amount of sixty thousand seven hundred sixty-eight dollars (\$60,768).

Sec. 3. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 24th day of May, 1973.

S. B. 940

CHAPTER 806

AN ACT TO AMEND RESOLUTION 80 CONCERNING THE ESTABLISHMENT OF A MENTAL HEALTH STUDY COMMISSION TO PROVIDE THAT NONE OF THE EX OFFICIO MEMBERS OF THE COMMISSION SHALL HAVE THE RIGHT TO VOTE.

The General Assembly of North Carolina enacts:

Section 1. The last sentence of Section 2 of Resolution 80 ratified by the General Assembly on May 3, 1973, is hereby amended by deleting the punctuation appearing at the end of that sentence and adding the following: "without any right to vote."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of May, 1973.

H. B. 929

CHAPTER 807

AN ACT TO EXPEDITE JUSTICE IN NORTH CAROLINA BY PROVIDING FOR ADMINISTRATIVE ASSISTANTS FOR SOLICITORS.

The General Assembly of North Carolina enacts:

Section 1. Article 9 of Chapter 7A of the General Statutes is hereby amended by adding a new section to read as follows:

"§ 7A-67. *Administrative assistants.*—(a) Each solicitor shall be entitled to one administrative assistant to be appointed by the solicitor and to serve at his pleasure. The assistant need not be an attorney licensed to practice law in the State of North Carolina.

(b) It shall be the duty of the administrative assistant to assist the solicitor in preparing cases for trial and in expediting the criminal court docket, and to assist in such other duties as may be assigned by the solicitor.

(c) When traveling on official business, each administrative assistant is entitled to reimbursement for his subsistence and travel expenses to the same extent as State employees generally."

Sec. 2. This act shall become effective on ratification.

In the General Assembly read three times and ratified, this the 24th day of May, 1973.

S. B. 344

CHAPTER 808

AN ACT TO AMEND G.S. 7A-377(b) TO PROVIDE FOR AN INVESTIGATOR FOR SPECIFIC CASES BEFORE THE JUDICIAL STANDARDS COMMISSION, AND TO PROVIDE FOR SERVICE OF PROCESS ISSUED BY THE JUDICIAL STANDARDS COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-377(b) is amended by adding the following two sentences at the end thereof:

"For specific cases the Commission may also employ an investigator or call upon the Director of the State Bureau of Investigation to furnish an investigator. While performing duties for the Commission such executive secretary, special counsel, or investigator shall have authority throughout the State to serve subpoenas or other process issued by the Commission in the same manner and with the same effect as an officer authorized to serve process of the General Court of Justice."

Sec. 2. This act shall become effective on ratification.

In the General Assembly read three times and ratified, this the 24th day of May, 1973.

S. B. 751

CHAPTER 809

AN ACT TO CREATE A RIGHT OF ACTION FOR RECOVERY OF ACTUAL AND PUNITIVE DAMAGES BY MERE POSSESSION OF PROPERTY FROM THIEVES, FENCES AND BUYERS OF STOLEN MERCHANDISE.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding any other provisions of the General Statutes of North Carolina, when personal property is wrongfully taken and carried away from the owner or person in lawful possession of such property without his consent and with the intent to permanently deprive him of the use, possession and enjoyment of said property, a right of action arises for recovery of actual and punitive damages from any person who has, or has had, possession of said property knowing the property to be stolen.

An agent having possession, actual or constructive, of property lawfully owned by his principal, shall have a right of action in behalf of his principal for any unlawful interference with that possession by a third person.

In cases of bailments where the possession is in the bailee, a trespass committed during the existence of the bailment shall give a right of action to the bailee for the interference with his special property and a concurrent right of action to the bailor for the interference with his general property.

Any abuse of, or damage done to, the personal property of another or one who is in possession thereof, unlawfully, is a trespass for which damages may be recovered.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of May, 1973.

S. B. 855

CHAPTER 810

AN ACT TO CHANGE THE NAMES OF NORTH CAROLINA SANATORIUM FOR THE TREATMENT OF TUBERCULOSIS TO MCCAIN HOSPITAL AND GRAVELY SANATORIUM AT CHAPEL HILL TO GRAVELY HOSPITAL.

The General Assembly of North Carolina enacts:

Section 1. The title to Article 7, Chapter 131, as the same appears in Volume 3B of the General Statutes, is hereby rewritten to read:

“McCain Hospital.”

Sec. 2. The words “North Carolina Sanatorium for the treatment of tuberculosis” wherever the same appear in Articles 7, 8, 9, and 11, Chapter 131, Volume 3B of the General Statutes, are hereby deleted and the following substituted in lieu thereof: “McCain Hospital”.

Sec. 3. Chapter 131 of the General Statutes is amended by adding a new Article to be designated “Gravelly Hospital” and a new section thereunder to read:

“§ 131-82.1. *Gravelly Hospital.*—The State institution for treatment of tuberculosis at Chapel Hill existing under the name of ‘Gravelly Sanatorium’ shall hereafter exist and be known as ‘Gravelly Hospital’.”

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of May, 1973.

S. B. 876

CHAPTER 811

AN ACT TO INCREASE THE POWERS OF THE MILK COMMISSION WITH RESPECT TO MILK PRICING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 106-266.8(10)b. which now reads:

“b. The Commission, after investigation and public hearing and finding as a fact that it is in the public interest, may fix the minimum wholesale and retail prices to be charged for milk in any market area and may fix different prices for different grades or classes of milk.”

is rewritten to read as follows:

“b. The Commission, after investigation and public hearing and finding as a fact that it is in the public interest, may fix the maximum and minimum wholesale and retail prices to be charged for milk in any market area by any person subject to this act and may fix different prices for different grades or classes of milk. The Commission may take into consideration the type of service rendered, the quantity delivered and the cost of the container.”

Sec. 2. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 24th day of May, 1973.

S. B. 910

CHAPTER 812

AN ACT TO AMEND CHAPTER 64 OF THE 1971 SESSION LAWS SO AS TO EXEMPT THE GOVERNOR'S MANSION RESTORATION PROJECT FROM PROVISIONS OF ARTICLE 8 OF CHAPTER 143 OF THE GENERAL STATUTES WITH RESPECT TO RECEIVING OF BIDS AND AWARDING OF CONTRACTS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 64 appearing on page 43 of the 1971 Session Laws is amended by deleting the period following the words "State Capitol Building" in the third line of Section 1, and adding the words "and the Governor's Mansion". Chapter 64 is further amended by adding after the words "Capitol Building" in line 4 of Section 2 the words "and the Governor's Mansion".

Sec. 2. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 24th day of May, 1973.

H. B. 670

CHAPTER 813

AN ACT TO EXPEDITE JUSTICE IN NORTH CAROLINA BY AUTHORIZING THE ATTORNEY GENERAL TO PROVIDE PROSECUTORIAL ASSISTANCE UPON REQUEST OF THE SOLICITOR.

Whereas, the people of North Carolina are concerned that every reasonable effort be made to expedite Justice and provide speedy trials; and

Whereas, it is recognized that the solicitors of our State generally are carrying tremendous caseloads and often are without time and resources to prepare and try cases which involve complex legal questions, extensive research and expert trial assistance; and

Whereas, the Attorney General has initiated a pilot program of prosecutorial assistance to provide these services to solicitors and this program has proved highly successful and drawn praise from the various solicitors of the State; and

Whereas, the continuation of this service would be of invaluable assistance to solicitors and would serve the cause of criminal justice in North Carolina; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby established in the office of the Attorney General of North Carolina, a Special Prosecution Division. The attorneys assigned to this Division shall be available to prosecute or assist in the prosecution of criminal cases when requested to do so by a solicitor and the Attorney General approves. In addition, these attorneys assigned to this Division shall serve as legal advisers to the State Bureau of Investigation and the Police Information Network and perform any other duties assigned to them by the Attorney General.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of May, 1973.

H. B. 671

CHAPTER 814

AN ACT APPROPRIATING FUNDS TO THE DEPARTMENT OF JUSTICE FOR THE ESTABLISHMENT OF A SPECIAL PROSECUTION DIVISION WITHIN THE ATTORNEY GENERAL'S OFFICE.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated to the Department of Justice out of the General Fund of the State, in addition to all other appropriations, the sum of eighty-two thousand seven hundred ninety-eight dollars (\$82,798) for the fiscal year beginning July 1, 1973, and the sum of eighty-two thousand seven hundred ninety-eight dollars (\$82,798) for the fiscal year beginning July 1, 1974, to be expended for the establishment of a special prosecution division of the Attorney General's office. The attorneys assigned to this division shall be available to prosecute or assist in the prosecution of criminal cases when requested to do so by a solicitor and the Attorney General approves. In addition, these attorneys shall serve as legal advisers to the State Bureau of Investigation and the Police Information Network and perform any other duties assigned them by the Attorney General.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of May, 1973.

H. B. 1358

CHAPTER 815

AN ACT TO PROVIDE FOR JUVENILE PROBATION AND COUNSELING SERVICES UNDER THE DIRECTION OF THE ADMINISTRATIVE OFFICE OF THE COURTS FOR THE FISCAL YEAR 1973-74.

Whereas, funds available to county departments of social services have been substantially reduced for juvenile probation and aftercare services; and

Whereas, additional funds have been appropriated to the Administrative Office of the Courts for such services; and

Whereas, the General Statutes as currently written restrict the authority of the Administrative Office of the Courts to certain judicial districts; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Any provision of G.S. 7A-134 or Article 2 of Chapter 110 of the General Statutes, or any other provision of law to the contrary notwithstanding, the Administrative Office of the Courts shall, throughout the period of September 1, 1973, through June 30, 1974, provide, in all judicial districts of the State, regardless of the population of any district or county therein, either directly or through contractual arrangements with county boards of social services, all juvenile probation and counseling services provided for by Article 2 of Chapter 110 of the General Statutes and by G.S. 7A-134, including aftercare services. Aftercare services shall include but not be limited to services to children who are on probation or who are on conditional release from the Department of Youth Development.

Sec. 2. This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of May, 1973.

S. B. 737

CHAPTER 816

AN ACT TO AMEND G.S. 135-4, G.S. 135-5(1), G.S. 128-26 AND G.S. 128-27(1) RELATING TO MONTHLY CONTRIBUTIONS TO THE RETIREMENT SYSTEM BY MEMBERS WHO ARE ON LEAVES OF ABSENCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 135-4 is hereby amended by adding a new subsection (j) to read as follows:

“(j) Creditable service at retirement shall include any service rendered by a member while on leave of absence to serve as a member or officer of the General Assembly which is not creditable toward retirement under the Legislative Retirement Fund provided the allowance of such credit shall be contingent upon the cancellation of service credit in the Fund and the transfer of the member's contributions plus accumulated interest from the Fund to this System.”

Sec. 2. G.S. 135-5(1) is hereby amended by adding the following subsection:

“(4) A member on leave of absence from his position as a teacher or State employee for the purpose of serving as a member or officer of the General Assembly shall be deemed to be in service during sessions of the General Assembly and thereby covered by the provisions of the death benefit. The amount of the death benefit for such member shall be the equivalent of the salary to which the member would have been entitled as a teacher or State employee during the twelve-month period immediately prior to the month in which death occurred, not to exceed \$15,000.”

Sec. 3. G.S. 128-26 is hereby amended by adding a new subsection (h) to read as follows:

“(h) Creditable service at retirement shall include any service rendered by a member while on leave of absence to serve as a member or officer of the General Assembly which is not creditable toward retirement under the Legislative Retirement Fund provided the allowance of such credit shall be contingent upon the cancellation of service credit in the Fund and the transfer of the member's contributions plus accumulated interest from the Fund to this System.”

Sec. 4. G.S. 128-27(1) is hereby amended by adding the following subsection:

“(4) A member on leave of absence from his position as a local governmental employee for the purpose of serving as a member or officer of the General Assembly shall be deemed to be in service during sessions of the General Assembly and thereby covered by the provisions of the death benefit, if applicable. The amount of the death benefit for such member shall be the equivalent of the salary to which the member would have been entitled as a local governmental employee during the twelve-month period immediately prior to the month in which death occurred, not to exceed \$15,000.”

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of May, 1973.

S. B. 824

CHAPTER 817

AN ACT TO AUTHORIZE THE STATE DEPARTMENT OF SOCIAL SERVICES TO ADJUST RATES IN LICENSED REST HOMES TO OFFSET ADDED COSTS OF MINIMUM WAGE LAWS.

The General Assembly of North Carolina enacts:

Section 1. Findings and Intent. The General Assembly of North Carolina finds that for the biennium ending June 30, 1973, the rates established for the room, board, care and custody of indigent citizens assigned by the State Department of Social Services to licensed family care homes or homes for the aged were based on the actual average cost of such services as determined by a Research Triangle Institute Cost Study, adjusted through 1971 to meet the added costs of minimum wage increases under Federal or State minimum wage laws. It is the intent of this act to authorize the use of available funds for such further adjustments as may be necessary to offset the increased costs of services due to any additional increases in minimum wages required by Federal or State laws after April 15, 1973.

Sec. 2. G.S. 108-27 is hereby amended by adding a new subsection (c) to read as follows:

"G.S. 108-27(c). The State Department of Social Services is authorized and empowered to utilize funds available to the Department to increase the rates for licensed family care homes or homes for the aged, or payments made for this purpose to persons assigned by the Department to these homes, to offset the increased costs due to any additional increases in minimum wages required by Federal or State laws after April 15, 1973."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of May, 1973.

H. B. 212

CHAPTER 818

AN ACT TO ESTABLISH A REINSURANCE PLAN FOR ALL MOTOR VEHICLE INSURANCE AND TO TERMINATE THE NORTH CAROLINA AUTOMOBILE INSURANCE PLAN.

The General Assembly of North Carolina enacts:

Section 1. Chapter 58 of the General Statutes of North Carolina is amended by the addition of a new Article thereto to be designated as "Article 30A" which shall read as follows:

"Article 30A.

"North Carolina Motor Vehicle Reinsurance Facility.

"§ 58-316. *North Carolina Motor Vehicle Reinsurance Facility; creation, membership.*—There is created a non-profit unincorporated legal entity to be known as the North Carolina Reinsurance Facility consisting of all insurers licensed to write and engaged in writing within this State motor vehicle insurance or any component thereof. Every such insurer, as a prerequisite to further engaging in writing such insurance in this State shall be a member of the Facility and shall be bound by the Rules of Operation thereof as provided for in this Article and as promulgated by the Board of Governors. No company may withdraw from membership in the Facility unless it ceases to write motor vehicle insurance in this State or ceases to be licensed to write such insurance.

“§ 58-317. *Obligations after termination of membership.*—Any company whose membership in the Facility has been terminated by withdrawal shall, nevertheless, with respect to its business prior to midnight of the effective date of such termination continue to be governed by this Article.

“§ 58-318. *Insolvency.*—Any unsatisfied net liability to the Facility of any insolvent member shall be assumed by and apportioned among the remaining members in the Facility in the same manner in which assessments or gain are apportioned by the Facility. The Facility shall have all rights allowed by law in behalf of the remaining members against the estate or funds of such insolvent for sums due the Facility in accordance with this Article.

“§ 58-319. *Merger, consolidation or cession.*—When a member has been merged or consolidated into another insurer, or has ceded its entire motor vehicle liability insurance business in the State to another insurer, such Company or its successor in interest, shall remain liable for all obligations hereunder and such Company and its successor in interest and the other insurers with which it has been merged or consolidated shall continue to participate in the Facility according to the Rules of Operation.

“§ 58-320. *General obligations of insurers.*—Except as otherwise provided in this Article all insurers as a prerequisite to the further engaging in this State in the writing of motor vehicle insurance or any component thereof shall accept and insure any otherwise unacceptable applicant therefor who is an eligible risk if cession of the particular coverage and coverage limits applied for are permitted in the Facility. All such insurers shall equitably share the results of such otherwise unacceptable business through the Facility and shall be bound by the acts of their agents in accordance with the provisions of this Article. No insurer shall impose upon any of its agents, solely on account of ceded business received from such agents, any quota or matching requirement for any other insurance as a condition for further acceptance of ceded business from such agents.

“§ 58-321. *General obligations of agents.*—Except as otherwise provided in this Article, no licensed agent of an insurer authorized to solicit and accept premiums for motor vehicle insurance or any component thereof by the company he represents shall refuse on behalf of said company to accept any application from an eligible risk for such insurance and to immediately bind the coverage applied for and for a period of not less than six months if cession of the particular coverage and coverage limits applied for are permitted in the Facility, provided the application is submitted during the agent's normal business hours, at his customary place of business and in accordance with the agent's customary practices and procedures. The commission paid on the insurance coverages provided in this act shall not be less than the commission on insurance coverage written through the N. C. Insurance Plan on May 1, 1973. The same commission shall apply uniformly statewide.

“§ 58-322. *Definitions.*—As used in this Article:

(1) ‘Cede’ or ‘cession’ means the act of transferring the profit or loss of otherwise unacceptable business (to the extent permitted in the plan of operation) from the individual insurer to all insurers through the operation of the Facility.

(2) ‘Commissioner’ means the Commissioner of Insurance.

(3) ‘Company’ means each member of the Facility.

(4) 'Eligible Risk' means a person who is a resident of this State who owns a motor vehicle registered or principally garaged in this State or who has a valid driver's license in this State or who is required to file proof of financial responsibility pursuant to Article 9A or 13 of the North Carolina Motor Vehicle Code in order to register his motor vehicle or obtain a driver's license in this State; or a nonresident of this State who owns a motor vehicle registered or principally garaged in this State, or the State and its agencies and cities, counties, towns and municipal corporations in this State and their agencies, provided, however, that no person shall be deemed an eligible risk if timely payment of premium is not tendered or if there is a valid unsatisfied judgment of record against such person for recovery of amounts due for motor vehicle insurance premiums and such person has not been discharged from paying said judgment, or if such person does not furnish the information necessary to effect insurance.

(5) 'Facility' means the North Carolina Motor Vehicle Reinsurance Facility established pursuant to the provisions of this Article.

(6) 'Motor Vehicle' means any motor vehicle as defined under Article 9A of Chapter 20 of the General Statutes of North Carolina.

(7) 'Motor vehicle insurance' means direct insurance against liability arising out of the ownership, operation, maintenance or use of a motor vehicle as defined in Article 9A of Chapter 20 of the General Statutes of North Carolina for bodily injury including death and property damage and includes medical payments and uninsured motorist coverages.

(8) 'Person' means every natural person, firm, partnership, association, corporation or government or agency thereof.

(9) 'Plan of Operation' means the plan of operation approved pursuant to the provisions of this Article.

(10) 'Reinsurance' means that the profit or loss of otherwise unacceptable insurance risks are equitably shared by all companies.

"§ 58-323. *The Facility.*—(a) The operation of the Facility shall assure the availability of motor vehicle insurance to any eligible risk by means of reinsurance and the Facility shall accept for transfer to the account of all members, the profit or loss of the business ceded in accordance with this Article, the Plan of Operation adopted pursuant thereto, and any amendments to either.

(b) The Facility shall reinsure for each coverage available therein to the standard percentage of 100% or lesser equitable percentage established in the Plan of Operation as follows:

(1) For the following coverages of motor vehicle insurance and in at least the following amounts of insurance:

- a. Bodily Injury Liability: \$25,000 each person, \$50,000 each accident;
- b. Property Damage Liability: \$10,000 each accident;
- c. Medical Payments: \$1,000 each person; except that this coverage shall not be available for motorcycles.
- d. Uninsured Motorist: \$25,000 each person; \$50,000 each accident for bodily injury; \$5,000 each accident property damage (\$100.00 deductible);

(2) Additional ceding privileges for motor vehicle insurance shall be provided by the Board of Governors if there is a substantial public demand for a coverage or coverage limit of any component of motor

vehicle insurance up to the following: Bodily Injury Liability: \$100,000 each person,

\$300,000 each accident

Property Damage Liability: \$50,000 each accident

Medical Payments: \$2,000 each person

Uninsured Motorist: \$100,000 each person and each accident for bodily injury and \$5,000 for property damage (\$100.00 deductible)

Any other motor vehicle insurance required by law: In twice the amount of coverage limits required by law.

(c) The Facility shall require each member to adjust losses for ceded business fairly and efficiently in the same manner as voluntary business losses are adjusted and to effect settlement where settlement is appropriate.

(d) The Facility shall be administered by a Board of Governors. The Board of Governors shall consist of nine members having one vote each from the classifications hereinafter enumerated plus the Commissioner who shall serve ex officio without vote. Each Facility insurance company member serving on the Board shall be represented by a senior officer of the company. Not more than one company in a group under the same ownership or management shall be represented on the Board at the same time. Five members of the Board shall be selected by the member insurers, which members shall be fairly representative of the industry. To insure representative member insurers, one each shall be selected from the following groups: the American Insurance Association (or its successors), the American Mutual Insurance Alliance (or its successors), the National Association of Independent Insurers (or its successors), all other stock insurers not affiliated with the above groups, and all other non-stock insurers not affiliated with the above groups. The Commissioner of Insurance shall appoint four members of the Board who shall be fire and casualty insurance agents licensed in this State and actively engaged in writing motor vehicle insurance in this State. The Commissioner shall select one agent from among a list of two nominees submitted by the Independent Insurance Agents of North Carolina, Inc., and one agent from among a list of two nominees submitted by The Carolinas Association of Mutual Insurance Agents, North Carolina Division. The initial term of office of said Board members shall be two years. Following completion of initial terms, successors to the members of the original Board of Governors shall be selected to serve three years. All members of the Board of Governors shall serve until their successors are selected and qualified and the Commissioner may fill any vacancy on the Board from any of the aforementioned classifications until such vacancies are filled in accordance with the provisions of this Article.

(e) The Commissioner and member companies shall provide for a Board of Governors within thirty days after the ratification of the act enacting this Article. If any member seat on the initial Board of Governors is not filled in accordance with this Article within such time, then, in that event the Commissioner shall appoint natural persons from any of the classifications specified in subsection (d) of this section to serve the initial term on the Board of Governors. As soon as possible after its selection, the Commissioner shall call for the initial meeting of the Board. After the Board of Governors have been selected it shall then elect from its membership a Chairman and shall then meet thereafter as often as the Chairman shall require or at the request of three members of the Board of Governors. The Chairman shall retain the right to vote

on all issues. Five members of the Board of Governors shall constitute a quorum. The same member may not serve as Chairman for more than two consecutive years.

(f) The Board of Governors shall have full power and administrative responsibility for the operation of the Facility. Such administrative responsibility shall include but not be limited to:

- (1) Proper establishment and implementation of the Facility.
- (2) Employment of a manager who shall be responsible for the continuous operation of the Facility and such other employees, officers and committees as it deems necessary.
- (3) Provision for appropriate housing and equipment to assure the efficient operation of the Facility.
- (4) Promulgation of reasonable rules and regulations for the administration and operation of the Facility and delegation to the manager of such authority as it deems necessary to insure the proper administration and operation thereof.

(g) Except as may be delegated specifically to others in the Plan of Operation or reserved to the members, power and responsibility for the establishment and operation of the Facility is vested in the Board of Governors, which power and responsibility include but is not limited to the following:

- (1) To sue and be sued in the name of the Facility. No judgment against the Facility shall create any direct liability in the individual member companies of the Facility.
- (2) To receive and record reinsurance cessions from member companies.
- (3) To assess members on the basis of participation ratios established in the Plan of Operation to cover anticipated or incurred costs of operation and administration of the Facility at such intervals as are established in the Plan of Operation.
- (4) To contract for goods and services from others to assure the efficient operation of the Facility.
- (5) To hear and determine complaints of any company, agent or other interested party concerning the operation of the Facility.
- (6) To review the market for motor vehicle insurance throughout North Carolina to make certain that eligible risks can readily obtain such insurance and to provide in the Plan of Operation a reasonable means for achieving this objective. The Facility is authorized to require all companies in a fair and equitable manner who are writers of motor vehicle insurance in this State to appoint and license any fire and casualty agent duly licensed to write insurance in North Carolina, in such places where a market need has been demonstrated, to be their agent to write motor vehicle insurance. The companies and agents may enter into such agency contract as may be agreeable to both parties. If a company ceases to be a member of the Facility after appointing and licensing agents pursuant to this provision, then the Facility shall promptly require another company or companies to appoint and license such agents in these places. Notwithstanding the provisions of this subdivision, the Commissioner may review the market for motor vehicle insurance or any component thereof. After notice to and consultation with the Board of Governors, if the Commissioner finds that reasonable facilities are not being provided to make motor vehicle insurance or any

component thereof available in a particular county, then in that event, he may require the Board to provide adequate facilities in such county. If the Board fails to comply with the requirements of the Commissioner, then the Commissioner may exercise all the powers of the Facility to provide such adequate facilities. Additionally, the Commissioner may require the company or companies selected to service a particular county to pay or provide for reasonable compensation for the services of the agent appointed to represent said company or companies, and, if necessary, the Commissioner may appoint such agent.

- (7) To maintain all loss, expense, and premium data relative to all risks reinsured in the Facility, and to require each member to furnish such statistics relative to insurance reinsured by the Facility at such times and in such form and detail as may be required.
- (8) To establish fair and reasonable procedures for the sharing among the members of profit and loss on Facility business and other costs, charges, expenses, liabilities, income, property and other assets of the Facility and for assessing or distributing to members their appropriate shares. Such shares may be based on the member's premiums for voluntary business for the appropriate category of motor vehicle insurance or by any other fair and reasonable method.
- (9) To receive or distribute all sums required by the operation of the Facility.
- (10) To accept all risks submitted from the companies in accordance with this Article.
- (11) To establish procedures for reviewing claims practices of member companies to the end that claims to the account of the Facility will be handled fairly and efficiently.
- (12) To adopt and enforce all rules and to do anything else where the Board is not elsewhere herein specifically empowered which is otherwise necessary to accomplish the purpose of the Facility and is not in conflict with the other provisions of this Article.

(h) Each member company shall authorize the Facility to audit that part of the company's business which is written subject to the Facility in a manner and time prescribed by the Board of Governors.

(i) The Board of Governors shall fix a date for an annual meeting and shall annually meet on that date. Twenty days' notice of such meeting shall be given in writing to all members of the Board of Governors.

(j) There shall be furnished to each member an annual report of the operation of the Facility in such form and detail as may be determined by the Board of Governors.

(k) Each member shall furnish statistics in connection with insurance subject to the Facility as may be required by the Facility. Such statistics shall be furnished at such time and in such form and detail as may be required but at least will include premiums charged, expenses and losses.

"§ 58-324. *Plan of operation.*—(a) Within 60 days after the initial organizational meeting, the Facility shall submit to the Commissioner, for his approval, a proposed Plan of Operation, consistent with the provisions of this act, which shall provide for economical, fair and non-discriminating administration and for the prompt and efficient provision of motor vehicle insurance to eligible risks. Should no plan be submitted within the aforesaid 60-day period, then the

Commissioner of Insurance shall formulate and place into effect a plan consistent with the provisions of this act.

(b) The Plan of Operation, unless sooner approved in writing, shall be deemed to meet the requirements of the act if it is not disapproved by order of the Commissioner within 30 days from the date of filing. Prior to the disapproval of all or any part of the proposed Plan of Operation the Commissioner shall notify the Facility in what respect the Plan of Operation fails to meet the specific requirements of this act. The Facility shall, within 30 days thereafter, submit for his approval a revised Plan of Operation which meets the specific requirements of this act. In the event the Facility fails to submit a revised Plan of Operation which meets the specific requirements of this act within the aforesaid 30-day period, the Commissioner of Insurance shall enter an order accordingly and shall immediately thereafter formulate and place into effect a plan consistent with the provisions of this act.

(c) Any revision of the proposed Plan of Operation or any subsequent amendments to an approved Plan of Operation shall be subject to approval or disapproval by the Commissioner in the manner herein provided in subsection (b) with respect to the initial Plan of Operation.

(d) Any order of the Commissioner with respect to the Plan of Operation or any revision of amendment thereof shall be subject to court review as provided in G.S. 58-9.3.

(e) Upon approval of the Commissioner of the Plan so submitted or the promulgation of a Plan deemed approved by the Commissioner, all insurance companies licensed to write motor vehicle insurance in this State or any component thereof as a prerequisite to further engaging in writing such insurance shall formally subscribe to and participate in the Plan so approved.

The Plan of Operation shall provide for, among other matters, the establishment of necessary facilities, the management of the Facility, the preliminary assessment of all members for initial expenses necessary to commence operations, the assessment of members to defray losses and expenses, the distribution of gains, the standard amount (100% or any equitable lesser amount) of coverage afforded on eligible risks which a member company may cede to the Facility, and the procedure by which reinsurance shall be accepted by the Facility; and shall further provide that:

- (1) Members of the Board of Governors shall receive reimbursement from the Facility for their actual and necessary expenses incurred on Facility business, en route to perform Facility business, and while returning from Facility business plus a per diem allowance of \$25.00 a day which may be waived.
- (2) In order to obtain a transfer of business to the Facility effective when the binder or policy or renewal thereof first becomes effective, the company must within 30 days of the binding or policy effective date notify the Facility of the identification of the insured, the coverage and limits afforded, classification data, and premium. The Facility shall accept risks at other times on receipt of necessary information, but such acceptance shall not be retroactive. The Facility shall accept renewal business after the member on underwriting review elects to again cede the business.

“§ 58-325. *Limit on cessions.*—Upon receipt by the company of a risk which it does not elect to retain, the company shall follow such procedures for ceding the

risk as are established by the Plan of Operation; provided, however, that no company can cede to the Facility more than fifty percent (50%) of all its motor vehicle insurance business in North Carolina without specific approval of the Board of Governors.

“§ 58-326. *Termination of insurance.*—No member may terminate insurance to the extent that cession of a particular type of coverage and limits is available under the provisions of this Article except for the following reasons:

(1) Non-payment of premium when due to the insurer or producing agent.

(2) The named insured has become a non-resident of this State and would not otherwise be entitled to insurance on submission of new application under this Article.

(3) A member company has terminated an agency contract for reasons other than the quality of the agent's insureds or the agent has terminated the contract and such agent represented the company in taking the original application for insurance.

(4) When the insurance contract has been cancelled pursuant to a power of attorney given a company licensed pursuant to the provisions of G.S. 58-56.

“§ 58-327. *Exemption from requirements of this Article of companies and their agents.*—By reason of the limit on cessions provided in this Article, the Board of Governors may exempt a company and its agents from the requirements of this Article, insofar as new business is concerned. The Board may further exempt a company and its agents from the requirements of this Article regarding the selling and servicing a particular category of business, if the company is not qualified to service the business.

“§ 58-327.1. *Physical damage insurance availability.*—No physical damage insurer shall refuse to make physical damage coverage available to any applicant for the reason that such applicant has, or may acquire, auto liability insurance through the facility plan as provided herein; further that no such insurer may levy a surcharge or increased rate for such physical damage coverage on the basis that such applicant has, or may acquire, auto liability insurance through the facility plan as provided herein.

Any such insurer or representative thereof failing to comply with, or otherwise violating the provisions of this section, shall be punished as prescribed in G.S. 58-248.4 and G.S. 58-248.5.

“§ 58-328. *Hearings; review.*—(a) Any applicant for a policy from any carrier, any person insured under such a policy, any member of the Facility and any agent duly licensed to write motor vehicle insurance, may request a formal hearing and ruling by the Board of Governors of the Facility on any alleged violation of or failure to comply with the Plan of Operation or the provisions of this Article or any alleged improper act or ruling of the Facility directly affecting him as to coverage or premium or in the case of a member directly affecting its assessment, and in the case of an agent, any matter affecting his appointment to a carrier or his account therewith. The request for hearing must be made within 15 days after the date of the alleged violation or improper act or ruling. The hearing shall be held within 15 days after the receipt of the request. The hearing may be held by any panel of the Board of Governors consisting of not less than three members thereof, and the ruling of a majority of the panel shall be deemed to be the formal ruling of the Board, unless the full Board on its own motion shall modify or rescind the action of the panel.

(b) Any formal ruling by the Board of Governors may be appealed to the Commissioner by filing notice of appeal with the Facility and Commissioner within 30 days after issuance of the ruling.

(c) The Commissioner shall issue an order approving the action or decision, disapproving the action or decision, or directing the Board of Governors to reconsider the ruling.

(d) Any aggrieved person or organization, any member of the Facility or the Facility may request a public hearing and ruling by the Commissioner on the Provisions of the Plan of Operation, rules, regulations or policy forms approved by the Commissioner. The request for hearing shall specify the matter or matters to be considered. The hearing shall be held within 30 days after receipt of the request. The Commissioner shall give public notice of the hearing and the matter or matters to be considered not less than 15 days in advance of the hearing date.

(e) In any hearing held pursuant to this section by the Board of Governors or the Commissioner, the Board or the Commissioner, as the case may be, shall issue a ruling or order within 30 days after the close of the hearing.

(f) All rulings or orders of the Commissioner under this section shall be subject to judicial review as approved in G.S. 58-9.3."

Sec. 2. The Commissioner of Insurance is authorized and directed to terminate the North Carolina Automobile Insurance Plan established pursuant to G.S. 20-279.34 when it appears to his satisfaction that the Facility herein established is fully operational and when the policies issued under the prior Plan have expired.

Sec. 3. Severability. If any provision or part of this act or application thereof is held invalid, the invalidity shall not affect other provisions, parts or applications of the act which can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

Sec. 4. This act shall become effective upon ratification; provided, however, the Facility shall not be required by the Commissioner to be operational earlier than prior to 60 days after the Plan of Operation has been approved and in no event later than January 1, 1974.

In the General Assembly read three times and ratified, this the 24th day of May, 1973.

H. B. 713

CHAPTER 819

AN ACT TO AUTHORIZE THE TRANSPORTATION OF UP TO FIVE GALLONS OF ALCOHOLIC BEVERAGES ON A STATEWIDE BASIS.

The General Assembly of North Carolina enacts:

Section 1. Subsection (g) of G.S. 18A-28 is hereby repealed.

Sec. 2. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 24th day of May, 1973.

H. B. 1202

CHAPTER 820

AN ACT TO INCREASE THE MEMBERSHIP OF THE ADVISORY BUDGET COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-4 is amended by rewriting the first paragraph of the section to read as follows:

"The Chairman of the Appropriations and the Finance Committees of the House and of the Senate, two other Senators appointed by the President of the Senate, two other Representatives appointed by the Speaker of the House, and four other persons appointed by the Governor shall constitute the Advisory Budget Commission."

Sec. 2. G.S. 143-4 is further amended by rewriting the third paragraph of the section to read as follows:

"A vacancy in a seat on the Commission filled by the Chairman of a Finance or an Appropriations Committee shall be filled by appointment by the officer who appointed the chairman causing the vacancy. A vacancy in one of the other seats on the Commission shall be filled by appointment by the officer who appointed the person causing the vacancy."

Sec. 3. G.S. 143-4 is further amended by rewriting the last paragraph of the section to read as follows:

"In all matters where action on the part of the Advisory Budget Commission is required by this Article, eight members of the Commission shall constitute a quorum for performing the duties or acts required by the Commission."

Sec. 4. This act shall take effect July 1, 1973.

In the General Assembly read three times and ratified, this the 24th day of May, 1973.

S. B. 682

CHAPTER 821

AN ACT TO AMEND PART 1, AND ADD A NEW PART 8 TO ARTICLE 21, CHAPTER 143, NORTH CAROLINA GENERAL STATUTES BY ADDING DEFINITIONS, PROVIDING FOR THE ESTABLISHMENT OF EFFLUENT STANDARDS AND LIMITATIONS AND THE GRANTING OF VARIANCES AND CERTAIN OTHER AMENDMENTS TO THE WATER AND AIR POLLUTION LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-213(18) is hereby amended by adding thereto a new subdivision as follows:

"d. 'Toxic waste' means that waste, or combinations of wastes, including disease-causing agents, which after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions in reproduction) or physical deformities, in such organisms or their offspring."

Sec. 2. G.S. 143-213 is amended by rewriting subdivisions (10), (13), (15), (17), and (19) and adding a new subdivision (26) to read as follows:

"(10) The term 'disposal system' means a system for disposing of waste, and including sewer systems and treatment works."

“(13) The term ‘outlet’ means the terminus of a sewer system, or the point of emergence of any waste or the effluent therefrom, into the waters of the State.”

“(15) The term ‘sewer system’ means pipelines or conduits, pumping stations, and force mains, and all other construction, devices, and appliances appurtenant thereto, used for conducting wastes to a point of ultimate disposal.”

“(17) The term ‘treatment works’ means any plant, septic tank disposal field, lagoon, pumping station, constructed drainage ditch or surface water intercepting ditch, incinerator, area devoted to sanitary landfill, or other works not specifically mentioned herein, installed for the purpose of treating, equalizing, neutralizing, stabilizing or disposing of waste.”

“(19) The term ‘water pollution’ means the man-made or man-induced alteration of the chemical, physical, biological, or radiological integrity of the waters of the State, including, but specifically not limited to, alterations resulting from the concentration or increase of natural pollutants caused by man-related activities.”

“(22) The term ‘complex sources’ means any facility which is or may be an air pollution source or which will induce or tend to induce development or activities which will or may be air pollution sources, and which shall include, but not be limited to shopping centers; sports complexes; drive-in theaters; parking lots and garages; residential, commercial, industrial or institutional developments; amusement parks and recreation areas; highways; and any other facilities which will result in increased emissions from motor vehicles or stationary sources.”

Sec. 3. G.S. 143-213 is hereby amended by renumbering existing subdivisions (12)-(14) as (13)-(15), by renumbering existing subdivisions (15)-(21) as (19)-(25), and by inserting four new subdivisions, to be numbered subdivisions (12), (16), (17), and (18), respectively, to read as follows:

“(12) The term ‘effluent standards’ or ‘effluent limitations’ means any restrictions established pursuant to this Article on quantities, rates, characteristics and concentrations of chemical, physical, biological and other constituents of wastes which are discharged from any pretreatment facility or from any outlet or point source to the waters of the State.”

“(16) The term ‘point source’ means any discernible, confined, and discrete conveyance, including, but specifically not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, or concentrated animal feeding operation from which wastes are or may be discharged to the waters of the State.”

“(17) The term ‘pretreatment facility’ means any treatment works installed for the purpose of treating, equalizing, neutralizing or stabilizing waste from any source prior to discharge to any disposal system subject to effluent standards or limitations.”

“(18) The term ‘pretreatment standards’ means effluent standards or limitations applicable to waste discharged from a pretreatment facility.”

Sec. 4. G.S. 143-215 is rewritten to read as follows:

“§ 143-215. *Effluent standards and limitations.*—(a) The Board is authorized and directed to develop, adopt, modify and revoke effluent standards and limitations as it determines necessary to prohibit, abate, or control water pollution. The effluent standards or limitations may provide, without limitation, standards or limitations for any point source or sources; standards, limitations or prohibitions for toxic wastes or combinations of toxic wastes

discharged from any point source or sources; and pretreatment standards for wastes discharged to any disposal system subject to effluent standards or limitations.

(b) The effluent standards and limitations developed and adopted by the Board shall be promulgated in its official regulations as provided in G.S. 143-215.3(a)(1) and shall provide limitations upon the effluents discharged from pretreatment facilities and from outlets and point sources to the waters of the State adequate to limit the waste loads upon the waters of the State to the extent necessary to maintain or enhance the chemical, physical, biological and radiological integrity of the waters concomitant with the public interest therein and the best use thereof; to preserve and protect the public health, safety and welfare; to promote propagation of and protect fish, shellfish and wildlife; to prevent damage to private and public property; and to preserve and enhance esthetic values."

Sec. 5. G.S. 143-215.1 is hereby amended by amending the title and rewriting the section to read as follows:

"§ 143-215.1. *Control of sources of water pollution; permits required.*—(a) After the effective date of water quality standards and classifications established pursuant to G.S. 143-214.1 or effluent standards or limitations established pursuant to G.S. 143-215, no person shall do any of the following things or carry out any of the following activities until or unless such person shall have applied for and shall have received from the Board a permit therefor and shall have complied with such conditions, if any, as are prescribed by such permit:

- (1) Make any outlets into the waters of the State;
- (2) Construct or operate any sewer system, treatment works, or disposal system within the State;
- (3) Alter, extend, or change the construction or method of operation of any sewer system, treatment works, or disposal system within the State;
- (4) Increase the quantity of waste discharged through any outlet or processed in any treatment works, or disposal system to an extent which would result in any violation of the effluent standards or limitations established for any point source or which would adversely affect the condition of the receiving waters to the extent of violating any of the standards applicable to such water, or to an extent beyond such minimum limits as the Board may prescribe, by way of general exemption from the provisions of this paragraph, by its official regulations;
- (5) Change the nature of the waste discharged through any disposal system in any way which would exceed the effluent standards or limitations established for any point source or which would adversely affect the condition of the receiving waters in relation to any of the standards applicable to such waters;
- (6) Cause or permit any waste, directly or indirectly, to be discharged to or in any manner intermixed with the waters of the State in violation of the water quality standards applicable to the assigned classifications or in violation of any effluent standards or limitations established for any point source, unless allowed as a condition of any permit, special order or other appropriate instrument issued or entered into by the Board under the provisions of this Article;
- (7) Cause or permit any wastes for which pretreatment is required by

pretreatment standards to be discharged directly or indirectly, from a pretreatment facility to any disposal system or to alter, extend or change the construction or method of operation or increase the quantity or change the nature of the waste discharged from or processed in such facility;

- (8) Enter into a contract for the construction and installation of any outlet, sewer system, treatment works, pretreatment facility or disposal system or for the alteration or extension of any such facilities.

In the event that both effluent standards or limitations and classifications and water quality standards are applicable to any point source or sources and to the waters to which they discharge, the more stringent among the standards established by the Board shall be applicable and controlling.

In connection with the above, no such permit shall be granted for the disposal of waste into waters classified as sources of public water supply, where the State Board of Health determines and advises the Board that such disposal is sufficiently close to the intake works or proposed intake works of a public water supply as to have an adverse effect thereon, until the Board has referred the complete plans and specifications to the State Board of Health and has received advice in writing that same are approved in accordance with the provisions of G.S. 130-161.

In any case where the Board denies a permit, it shall state in writing the reason for such denial and shall also state the Board's estimate of the changes in the applicant's proposed activities or plans which will be required in order that the applicant may obtain a permit.

(b) Board's power as to permits. The Board shall act upon all applications for permits so as to effectuate the purpose of this section, by preventing, so far as reasonably possible, any pollution or any increased pollution of the waters of the State from any additional or enlarged sources.

The Board shall have the power:

- (1) To grant a permit with such conditions attached as the Board believes necessary to achieve the purposes of this section;
- (2) To grant any temporary permit for such period of time as the Board shall specify even though the action allowed by such permit may result in pollution or increased pollution where conditions make such temporary permit essential; and
- (3) To modify or revoke any permit upon not less than 60 days' written notice to any person affected.

No permit shall be denied and no condition shall be attached to the permit, except when the Board finds such denial or such conditions necessary to effectuate the purposes of this section.

(c) Applications for permits and renewals for pretreatment facilities and for other facilities discharging to the surface waters.

- (1) All applications for permits and for renewal of existing permits for pretreatment facilities, outlets and point sources and for treatment works and disposal systems discharging to the surface waters of the State shall be in writing, and the Board may prescribe the form of such applications. All applications shall be filed with the Board at least 180 days in advance of the date on which it is desired to commence the discharge of wastes or the date on which an existing permit expires, as the case may be. The Board shall act on all applications for permits as

rapidly as possible, but it shall have the power to request such information from the applicant and to conduct such inquiry or investigation as it may deem necessary prior to acting on any application. The Board may adopt such rules as it deems necessary, to be published as a part of its rules of procedure, with respect to the consideration of any application for permit or renewal and to the granting or denial thereof. Such rules may require the submission of plans and specifications and such other information as the Board deems necessary to the proper evaluation of the application.

- (2) The Board, pursuant to appropriate rules of procedure adopted by it, shall refer each application for permit, or renewal of an existing permit, for pretreatment facilities, outlets and point sources and treatment works and disposal systems discharging to the surface waters of the State to its staff for written evaluation and proposed determination with regard to issuance or denial of the permit. If the Board concurs in the proposed determination, it shall cause notice of the application and of the proposed determination, along with any other data that the Board may determine appropriate, to be given to the appropriate State, interstate and federal agencies, to interested persons, and to the public. The Board, through its official rules, shall prescribe the form and content of the notice.

The notice required herein shall be given at least 45 days prior to any proposed final action granting or denying the permit. Public notice shall be given by posting a copy of the notice at the courthouse in the county in which the pretreatment facility, outlet or point source or treatment works or disposal system discharging to the surface waters of the State lies and by publication of the notice one time in a newspaper having general circulation within the county.

- (3) If any person desires a public hearing on any application for permit or renewal of an existing permit provided for in this subsection, he shall so request in writing to the Board within 30 days following date of the notice of application. The Board shall consider all such requests for hearing, and if the Board determines that there is a significant public interest in holding such hearing, at least 30 days' notice of such hearing shall be given to all persons to whom notice of application was sent and to any other person requesting notice. At least 30 days prior to the date of hearing, the Board shall also cause a copy of the notice thereof to be posted at the courthouse door of the county in which the pretreatment facility, outlet, point source, treatment works or disposal system lies, and shall cause the notice to be published at least one time in a newspaper having general circulation in such county. The Board, through its official rules, shall prescribe the form and content of the notices.

The Board shall adopt appropriate rules and regulations governing the procedures to be followed in such hearings. If the hearing is not conducted by the Board, detailed minutes of the meeting shall be kept and shall be submitted, along with any other written comments, exhibits or documents presented at the hearing, to the Board for its consideration prior to final action granting or denying the permit.

- (4) Forty-five days following notice of application or, if a public hearing is

held, within 90 days following consideration of the matters and things presented at such hearing, the Board shall grant or deny any application for issuance of a new permit or for renewal of an existing permit. All permits or renewals issued by the Board and all decisions denying application for permit or renewal shall be in writing.

(5) No permit issued pursuant to this subsection (c) shall be issued or renewed for a term exceeding five years.

(d) Applications and permits for sewer systems, sewer system extensions, and for wastewater treatment facilities not discharging to the surface waters of the State. All applications for new permits and for renewals of existing permits for sewer systems, sewer system extensions and for disposal systems or treatment works which do not discharge to the surface waters of the State, and all permits or renewals and decisions denying any application for permit or renewal shall be in writing. The Board shall act on all applications for permits as rapidly as possible, but it shall have power to request such information from an applicant and to conduct such inquiry or investigation as it may deem necessary prior to acting on any application for a permit. Failure of the Board to take action on an application for a permit or renewal within 90 days after all data, plans, specifications and other required information have been furnished by the applicant, shall be treated as approval of such application. The Board shall adopt such rules and regulations as it deems necessary, establishing the form of and procedures for processing applications, permits and renewals. Such regulations may require the submission of plans and specifications and other information as the Board deems necessary to the proper evaluation of an application. Permits and renewals issued in approving such facilities pursuant to this subsection (d) shall be effective until the date specified therein or until rescinded unless modified or revoked by the Board.

(e) Hearings and appeals. Any person whose application for a permit or renewal is denied, or is granted subject to conditions which are unacceptable to such person, or whose permit is modified or revoked, shall have the right to a hearing before the Board upon making demand therefor within 30 days following the giving of notice by the Board as to its decision on such application. Unless such a demand for a hearing is made, the decision of the Board on the application shall be final and binding. If demand for a hearing is made, the procedure with respect thereto and with respect to all further proceedings shall be as specified in G.S. 143-215.4 and in any applicable rules of procedure of the Board."

Sec. 6. Article 21, Chapter 143 of the North Carolina General Statutes is amended by adding thereto a new Part 8, reading as follows:

"Part 8. Air Pollution Control

"§ 143-215.70. *Declaration of policy; definitions.*—The declaration of public policy set forth in G.S. 143-211 and the definitions set forth in G.S. 143-213, applicable to the control and abatement of air pollution, shall be applicable to this Part.

"§ 143-215.71. *Administration.*—The air quality program of the State of North Carolina shall be administered by the Department of Natural and Economic Resources under the rules, regulations and policies of the North Carolina Board of Water and Air Resources created pursuant to G.S. 143-214. The Board shall review and have general oversight and supervision over the creation and administration of local air pollution control programs authorized

by this Part. Public hearings on the adoption by the Board of air quality standards, emission control standards, and classifications for air contaminant sources as well as any proposed revisions in such standards and classifications shall be conducted in accordance with the procedure set forth in subsections (e)(1), (e)(2) and (e)(3) of G.S. 143-214.1.

“§ 143-215.72. *Air quality standards and classifications.*—(a) The Board is hereby directed and empowered, as rapidly as possible within the limits of funds and facilities available to it, and subject to the procedural requirements of this Article:

- (1) To prepare and develop, after proper study, a comprehensive plan or plans for the prevention, abatement and control of air pollution in the State or in any designated area of the State.
 - (2) To determine by means of field sampling and other studies, including the examination of available data collected by any local, State or federal agency or any person, the degree of air contamination and air pollution in the State and the several areas of the State.
 - (3) To develop and adopt, after proper study, air quality standards applicable to the State as a whole or to any designated area of the State as the Board deems proper in order to promote the policies and purposes of this Article most effectively.
 - (4) To develop and adopt classifications for use in classifying air contaminant sources, which in the judgment of the Board may cause or contribute to air pollution, according to levels and types of emissions and other characteristics which relate to air pollution and may require reporting for any such class or classes. Such classifications may be for application to the State as a whole or to any designated area of the State, and shall be made with special reference to effects on health, economic and social factors, and physical effects on property. Any person operating or responsible for the operation of air contaminant sources of any class for which the Board requires reporting shall make reports containing such information as may be required by the Board concerning location, size, and height of contaminant outlets, processes employed, fuels used, and the nature and time periods or duration of emissions, and such other information as is relevant to air pollution and available or reasonably capable of being assembled.
 - (5) To develop and adopt such emission control standards as in the judgment of the Board may be necessary to prohibit, abate or control air pollution commensurate with established air quality standards. Such standards may be applied uniformly to the State as a whole or to any area of the State designated by the Board.
 - (6) To adopt, when necessary and practicable, a program for testing emissions from motor vehicles and to adopt motor vehicle emission standards in compliance with applicable federal regulations.
- (b) Criteria for standards. In developing air quality and emission control standards, the Board shall recognize varying local conditions and requirements and may prescribe different standards for different areas, as may be necessary and appropriate to facilitate accomplishment of the stated purposes of this Article.
- (c) Proposed adoption of standards and classifications. Prior to the adoption by the Board of air quality standards, emission control standards and

classifications for air contaminant sources, and prior to any modification of any such actions previously taken, the Board shall give notice of its proposed action and shall conduct one or more public hearings with respect to any such proposed action in accordance with the procedure set forth in subsections (e)(1), (e)(2), and (e)(3) of G.S. 143-214.1.

(d) Final adoption of air quality standards, emission control standards and classifications for air contaminant sources. Upon completion of hearings and consideration of submitted evidence and arguments concerning any proposed action by the Board with respect to the adoption of air quality standards, emission control standards and classifications for air contaminant sources, the Board shall adopt its final action with respect thereto and shall publish such final action as a part of its official regulations. When final action has been adopted and is published with respect to the aforesated standards and classifications, the Board shall likewise publish as a part of its official regulations, the effective date for the application of the provisions of G.S. 143-215.73 and G.S. 143-215.74 to persons within the State as a whole or within any designated area of the State.

(e) The Board's power to modify or revoke. The Board is hereby empowered to modify or revoke from time to time any final action previously taken by it pursuant to the provisions of this Part, any such modification or revocation, however, to be subject to the procedural requirements of this Article.

“§ 143-215.73. *Control of sources of air pollution; permits required.*—(a) After the effective date applicable to any air quality or emission control standards established pursuant to G.S. 143-215.72, no person shall do any of the following things or carry out any of the following activities which contravene or will be likely to contravene such standards until or unless such person shall have applied for and shall have received from the Board a permit therefor and shall have complied with such conditions, if any, as are prescribed by such permit:

- (1) Establish or operate any air contaminant source;
- (2) Build, erect, use or operate any equipment which may result in the emission of air contaminants or which is likely to cause air pollution;
- (3) Alter or change the construction or method of operation of any equipment or process from which air contaminants are or may be emitted;
- (4) Enter into a contract for the construction and installation of any air-cleaning device, or allow or cause such device to be constructed, installed, or operated.

(b) The Board shall act upon all applications for permits so as to effectuate the purpose of this section, by reducing existing air pollution and preventing, so far as reasonably possible, any increased pollution of the air of the State from any additional or enlarged sources.

The Board shall have the power:

- (1) To grant and renew a permit with such conditions attached as the Board believes necessary to achieve the purposes of this section;
- (2) To grant and renew any temporary permit for such period of time as the Board shall specify even though the action allowed by such permit

may result in pollution or increase pollution where conditions make such temporary permit essential;

- (3) To modify or revoke any permit upon not less than 60 days' written notice to any person affected;
- (4) To require all applications for permits and renewals to be in writing and to prescribe the form of such applications;
- (5) To request such information from an applicant and to conduct such inquiry or investigation as it may deem necessary and to require the submission of plans and specifications prior to acting on any application for a permit; and
- (6) To adopt rules, as it deems necessary, establishing the form of applications and permits and procedures for the granting or denial of permits and renewals pursuant to this section; and all permits, renewals and denials shall be in writing.

The Board shall act on all applications for permits as rapidly as possible, but it shall have the power to request such information from an applicant and to conduct such inquiry or investigation as it may deem necessary prior to acting on any application for a permit. Failure of the Board to take action on an application for a permit within 90 days after all data, plans, specifications and other required information have been furnished by the applicant shall be deemed as approval of such application.

Any person whose application for a permit or renewal thereof is denied or is granted subject to conditions which are unacceptable to such person or whose permit is modified or revoked shall have the right to a hearing before the Board upon making demand therefor within 30 days following the giving of notice by the Board as to its decision upon such application. Unless such a demand for a hearing is made, the decision of the Board on the application shall be final and binding. If demand for a hearing is made, the procedure with respect thereto and with respect to all further proceedings shall be as specified in G.S. 143-215.4 and in any applicable rules of procedure of the Board.

“§ 143-215.74. *Control of Complex Sources.*—(a) The Board shall develop and adopt regulations establishing criteria for controlling the effects of complex sources on air quality. The regulations shall set forth such basic minimum criteria or standards under which the Board shall approve or disapprove any such construction or modification. The regulations shall further provide for the submission of plans, specifications and such other information as may be necessary for the review and evaluation of proposed or modified complex sources.

(b) If the Board shall determine that the construction or modification of any complex sources will result in a violation of ambient air quality standards or interfere with the attainment of such standards in any area where an air pollution abatement control program has been established, the Board shall have authority to disapprove such construction or modification or to approve such construction or modification under such conditions as the Board shall deem necessary or appropriate.

(c) In adopting the regulations required by this section and in applying such regulations to any complex source, the Board may conduct such public hearings as it, in its sole discretion, shall deem appropriate, after such notice and pursuant to such procedures as the Board shall establish in its rules of procedure.

“§ 143-215.75. *Special orders.*—(a) Issuance. The Board is hereby empowered, after the effective date of standards and classifications adopted pursuant to G.S. 143-215.72, to issue (and from time to time to modify or revoke) a special order or other appropriate instrument, to any person whom it finds responsible for causing or contributing to any pollution of the air within the area for which standards have been established. Such an order or instrument may direct such person to take, or refrain from taking such action, or to achieve such results, within a period of time specified by such special order, as the Board deems necessary and feasible in order to alleviate or eliminate such pollution. The Board is authorized to enter into consent special orders, assurances of voluntary compliance or other similar documents by agreement with the person responsible for pollution of the air, and such document shall have the same force and effect as a special order of the Board issued pursuant to hearing.

(b) Procedure. No special order shall be issued by the Board (unless issued upon the consent of the person affected thereby) except after a hearing in accordance with the procedural requirements specified in G.S. 143-215.76 and in any applicable rules of procedure of the Board. Any special order shall be based on and shall set forth the findings of fact resulting from evidence presented at such hearing and shall specify the time within which the person against whom such order is issued shall achieve the results required by the special order.

(c) Appeals. Any person against whom a special order is issued shall have the right to appeal in accordance with the provisions of G.S. 143-215.5. Unless such appeal is taken within the prescribed time limit, the special order of the Board shall be final and binding.

(d) Effect of compliance. Any person who installs an air-cleaning device for the purpose of alleviating or eliminating air pollution in compliance with the terms of, or as a result of the conditions specified in, a permit issued pursuant to G.S. 143-215.73, or a special order, consent special order, assurance of voluntary compliance or similar document issued pursuant to this section, or a final decision of the Board or a court, rendered pursuant to either of said sections, shall not be required to take or refrain from any further action nor be required to achieve any further results under the terms of this or any other State law relating to the control of air pollution, for a period to be fixed by the Board or court as it shall deem fair and reasonable in the light of all the circumstances after the date such special order, consent special order, assurance of voluntary compliance, other document or decision, or the conditions of such permit become finally effective, if:

- (1) The air-cleaning devices result in the elimination or alleviation of air pollution to the extent required by such permit, special order, consent special order, assurance of voluntary compliance, or other document or decision and complies with any other terms thereof; and
- (2) Such person complies with the terms and conditions of such permit, special order, consent special order, assurance of voluntary compliance, other document or decision within the time limit, if any, specified therein or as the same may be extended, and thereafter remains in compliance.

“§ 143-215.76. *General powers of Board; auxiliary powers.*—In addition to the specific powers prescribed elsewhere in this Article and the applicable general

powers prescribed in G.S. 143-215.3, and for the purpose of carrying out its duties, the Board shall have the power:

(a) To make a continuing study of the effects of the emission of air contaminants from motor vehicles on the quality of the outdoor atmosphere of the State and the several areas thereof, and make recommendations to the General Assembly and other appropriate public and private bodies for the control of such air contaminants.

(b) To consult, upon request, with any person proposing to construct, install, or otherwise acquire an air pollution source or air-cleaning device for the control of air contaminants concerning the efficacy of such device, or the air problem which may be related to such source, or device; provided, however, that nothing in any such consultation shall be construed to relieve any person from compliance with this Article, rules and regulations adopted pursuant thereto, or any other provision of law.

(c) To encourage local units of government to handle air pollution problems within their respective jurisdictions and on a cooperative basis, and to provide such local units technical and consultative assistance to the maximum extent possible.

“§143-215.77. *Local air pollution control programs.*—(a) The Board is authorized and directed to review and have general oversight and supervision over all existing or proposed local air pollution control programs and to this end shall review and certify such programs as being adequate to meet the requirements of this Article and any applicable standards and rules and regulations adopted pursuant thereto. The Board shall certify any local program which:

- (1) Provides by ordinance or local law for requirements compatible with those imposed by the provisions of this Article, and the standards and rules and regulations issued pursuant thereto; provided, however, the Board upon request of a municipality or other local unit may grant special permission for the governing body of such unit to adopt a particular class of air contaminant regulations which would result in more effective air pollution control than applicable standards, rules, or regulations promulgated by the Board;
- (2) Provides for the adequate enforcement of such requirements by appropriate administrative and judicial process;
- (3) Provides for an adequate administrative organization, staff, financial and other resources necessary to effectively and efficiently carry out its programs; and
- (4) Is approved by the Board as adequate to meet the requirements of this Article and any applicable rules and regulations pursuant thereto.

(b) No municipality, county, local board or commission or group of municipalities and counties may establish and administer an air pollution control program unless such program meets the requirements of this section and is so certified by the Board.

- (c) (1) The governing body of any county, municipality, or group of counties and municipalities within a designated area of the State, as defined in this Article, subject to the approval of the Board of Water and Air Resources, is hereby authorized to establish, administer, and enforce a local air pollution

control program for the county, municipality, or designated area of the State which includes but is not limited to:

- a. Development of a comprehensive plan for the control and abatement of new and existing sources of air pollution;
 - b. Air quality monitoring to determine existing air quality and to define problem areas, as well as to provide background data to show the effectiveness of a pollution abatement program;
 - c. An emissions inventory to identify specific sources of air contamination and the contaminants emitted, together with the quantity of material discharged into the outdoor atmosphere;
 - d. Adoption, after notice and public hearing, of air quality and emission control standards, or adoption by reference, without public hearing, of any applicable rules, regulations and standards duly adopted by the Board of Water and Air Resources; and administration of such rules, regulations and standards in accordance with provisions of this section.
 - e. Provisions for the establishment or approval of time schedules for the control or abatement of existing sources of air pollution and for the review of plans and specifications and issuance of approval documents covering the construction and operation of pollution abatement facilities at existing or new sources;
 - f. Provision for adequate administrative staff, including an air pollution control officer and technical personnel, and provision for laboratory and other necessary facilities.
- (2) Subject to the approval of the Board of Water and Air Resources as provided in this Article, the governing body of any county or municipality may establish, administer, and enforce an air pollution control program by either of the following methods:
- a. Establishing a program under the administration of the duly elected governing body of the county or municipality;
 - b. Appointing an air pollution control board consisting of not less than five nor more than seven members who shall serve for terms of six years each and until their successors are appointed and qualified. Two members shall be appointed for two-year terms, two shall be appointed for four-year terms, and the remaining member or members shall be appointed for six-year terms. Where the term 'governing body' is referred to in this section, it shall include the air pollution control board. Such board shall have all the powers and authorities granted to any local air pollution control program. The board shall elect a chairman and shall meet at least quarterly or upon the call of the chairman or any two members of the board;
 - c. Appointing an air pollution control board as provided in this subdivision, and by appropriate written agreement designating the local health department or other department of county or municipal government as the administrative agent for the air pollution control board; and
 - d. Designating, by appropriate written agreement, the local board of health and the local health department as the air pollution control board and agency.
- (3) If the Board finds that the location, character or extent of particular

concentrations of population, air contaminant sources, the geographic, topographic or meteorological considerations, or any combinations thereof, are such as to make impracticable the maintenance of appropriate levels of air quality without an area-wide air pollution control program, the Board may determine the boundaries within which such program is necessary and require such area-wide program as the only acceptable alternative to direct State administration. Subject to the provisions of this section, each governing body of a county or municipality is hereby authorized and empowered to establish by contract, joint resolution, or other agreement with any other governing body of a county or municipality, upon approval by the Board of Water and Air Resources, an air pollution control region containing any part or all of the geographical area within the jurisdiction of those boards or governing bodies which are parties to such agreement, provided the counties involved in the region are contiguous or lie in a continuous boundary and comprise the total area contained in any region designated by the Board of Water and Air Resources for an area-wide program. The participating parties are authorized to appoint a regional air pollution control board which shall consist of at least five members who shall serve for terms of six years and until their successors are appointed and qualified. Two members shall be appointed for two-year terms, two shall be appointed for four-year terms and the remaining member or members shall be appointed for six-year terms. A participant's representation on the board shall be in relation to its population to the total population of the region based on the latest official United States census with each participant in the region having at least one representative; provided, that where the region is comprised of less than five counties, each participant will be entitled to appoint members in relation to its population to that of the region so as to provide a board of at least five members. Where the term 'governing body' is used, it shall include the governing board of a region. The regional board is hereby authorized to exercise any and all of the powers provided in this section. The regional air pollution control board shall elect a chairman and shall meet at least quarterly or upon the call of the chairman or any two members of the board. In lieu of employing its own staff, the regional air pollution control board is authorized, through appropriate written agreement, to designate a local health department as its administrative agent.

- (4) Each governing body is authorized to adopt any ordinances, resolutions, rules or regulations which are necessary to establish and maintain an air pollution control program and to prescribe and enforce air quality and emission control standards, a copy of which must be filed with the Board of Water and Air Resources and with the clerk of court of any county affected. Provisions may be made therein for the registration of air contaminant sources; for the requirement of a permit to do or carry out specified activities relating to the control of air pollution, including procedures for application, issuance, denial and revocation; for notification of violators or potential violators about requirements or conditions for compliance; for procedures to grant temporary permits or variances from requirements or standards; for the declaration of an emergency when it is found that a generalized condition of air pollution

is causing imminent danger to the health or safety of the public and the issuance of an order to the responsible person or persons to reduce or discontinue immediately the emission of air contaminants; for notice and hearing procedures for persons aggrieved by any action or order of any authorized agent; for the establishment of an advisory council and for other administrative arrangements; and for other matters necessary to establish and maintain an air pollution control program.

(d) (1) Violation of any ordinances, resolutions, rules or regulations duly adopted by a governing body shall constitute a misdemeanor, punishable as provided in G.S. 143-215.79(b).

(2) Each governing body, or its duly authorized agent, may institute a civil action in the superior court, brought in the name of the agency having jurisdiction, for injunctive relief to restrain any violation or immediately threatened violation of such ordinances, orders, rules, or regulations and for such other relief as the court shall deem proper. Neither the institution of the action nor any of the proceedings thereon shall relieve any party to such proceedings from the penalty prescribed by this Article for any violation of same.

(3) In addition, each governing body is authorized to expend tax funds, nontax funds, or any other funds available to it to finance an air pollution control program and such expenditures are hereby declared to be for a public purpose and a necessary expense.

(4) Any final administrative decision rendered in an air pollution control program of such governing body shall be subject to judicial review as provided by Article 33 of Chapter 143, and 'administrative agency' or 'agency' as used therein shall mean and include for this purpose the governing body of any county or municipality, regional air pollution control governing board, and any agency created by them in connection with an air pollution control program.

(e) (1) If the Board has reason to believe that a local air pollution control program certified and in force pursuant to the provisions of this section is inadequate to abate or control air pollution in the jurisdiction to which such program relates, or that such program is being administered in a manner inconsistent with the requirements of this Article, the Board shall, upon due notice, conduct a hearing on the matter.

(2) If, after such hearing the Board determines that an existing local air pollution control program or one which has been certified by the Board is inadequate to abate or control air pollution in the municipality, county, or municipalities or counties to which such program relates, or that such program is not accomplishing the purposes of this Article, it shall set forth in its findings the corrective measures necessary for continued certification and shall specify a reasonable period of time, not to exceed one year, in which such measures must be taken if certification is not to be rescinded.

(3) If the municipality, county, local board or commission or municipalities or counties fail to take such necessary corrective action within the time specified, the Board shall rescind any certification as may have been issued for such program and shall administer within such municipality, county, or municipalities or counties all of the regulatory provisions of this Article. Such air pollution control program shall

supersede all municipal, county or local laws, regulations, ordinances and requirements in the affected jurisdiction.

- (4) If the Board finds that the control of a particular class of air contaminant source because of its complexity or magnitude is beyond the reasonable capability of the local air pollution control authorities or may be more efficiently and economically performed at the State level, it may assume and retain jurisdiction over that class of air contaminant source. Classification pursuant to this paragraph may be either on the basis of the nature of the sources involved or on the basis of their relationship to the size of the communities in which they are located.
- (5) Any municipality or county in which the Board administers its air pollution control program pursuant to subdivision (3) of this subsection may, with the approval of the Board, establish or resume a municipal, county, or local air pollution control program which meets the requirements for certification by the Board.
- (6) Nothing in this Article shall be construed to supersede or oust the jurisdiction of any local air pollution control program in operation on June 22, 1967; provided that within two years from such date any such program shall meet all requirements of this Article for certification by the Board as an approved local air pollution control program. Any certification required from the Board shall be deemed granted unless the Board takes specific action to the contrary.
- (7) Any municipality, county, local board or commission or municipalities or counties or designated area of this State for which a local air pollution control program is established or proposed for establishment may make application for, receive, administer and expend federal grant funds for the control of air pollution or the development and administration of programs related to air pollution control; provided that any such application is first submitted to and approved by the Board. The Board shall approve any such application if it is consistent with this Article and other applicable requirements of law.
- (8) Notwithstanding any other provision of this section, if the Board determines that an air pollution source or combination of sources is operating in violation of the provisions of this Article and that the appropriate local authorities have not acted to abate such violation, the Board, upon written notice to the appropriate local governing body, may act on behalf of the State to require any person causing or contributing to the pollution to cease immediately the emission of air pollutants causing or contributing to the violation or may require such other action as it shall deem necessary.

“§ 143-215.78. *General provisions as to procedure; seal; hearing officer; appeals.*—All hearings provided for in this Part to be conducted by the Board shall be in accordance with the provisions of G.S. 143-215.4. Appeals from any final order or decision of the Board shall be pursuant to the provisions of G.S. 143-215.5.

“§ 143-215.79. *Enforcement procedures.*—(a) Civil Penalties.

- (1) A civil penalty of not more than five thousand dollars (\$5,000) may be assessed against any person who:
 - a. Violates any classification, standard or limitation established pursuant to G.S. 143-215.72;

- b. Is required but fails to apply for or to secure a permit required by G.S. 143-215.73 or who violates or fails to act in accordance with the terms, conditions, or requirements of such permit;
 - c. Violates or fails to act in accordance with the terms, conditions, or requirements of any special order or other appropriate document issued pursuant to G.S. 143-215.75;
 - d. Fails to file, submit, or make available, as the case may be, any documents, data or reports required by this Article;
 - e. Refuses access to the Board of its duly designated representatives to any premises for the purpose of conducting any investigations provided for in this Article; or
 - f. Violates any duly adopted regulation of the Board implementing the provisions of this Article.
- (2) If any action or failure to act for which a penalty may be assessed under this subsection is willful, the Board may assess a penalty not to exceed five thousand dollars (\$5,000) per day for so long as the violation continues.
- (3) The Board, or, if authorized by the Board, the Department of Natural and Economic Resources may assess the penalties provided for in this subsection. Any person assessed shall be notified of the assessment by registered or certified mail, and the notice shall specify the reasons for the assessment. If the person assessed fails to pay the amount of the assessment to the Department of Natural and Economic Resources within 30 days after receipt of notice, or such longer period, not to exceed 180 days, as the Board may specify, the Board may institute a civil action in the Superior Court of Wake County to recover the amount of the assessment. In any such civil action, the scope of the court's review of the Board's action (which shall include a review of the amount of the assessment), shall be as provided in G.S. 143-315.
- (b) Criminal penalties.
- (1) Any person who willfully or negligently violates any classification, standard or limitation established pursuant to G.S. 143-21.72; any term, condition, or requirement of a permit issued pursuant to G.S. 143-215.73 or of a special order or other appropriate document issued pursuant to G.S. 143-215.75 or any regulation of the Board implementing any of the said section, shall be guilty of a misdemeanor punishable by a fine not to exceed twenty-five thousand dollars (\$25,000) per day of violation, or by imprisonment not to exceed six months, or by both.
- (2) Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Article or regulations of the Board implementing this Article, or who falsifies, tampers with, or knowingly renders inaccurate any recording or monitoring device or method required to be operated or maintained under this Article or regulations of the Board implementing this Article, shall be guilty of a misdemeanor punishable by a fine not to exceed ten thousand dollars (\$10,000), or by imprisonment not to exceed six months, or by both.
- (3) Any person convicted of an offense under either subdivision or

subdivision (2) of this subsection following a previous conviction under such subdivision shall be subject to a fine, or imprisonment, or both, not exceeding twice the amount of the fine, or twice the term of imprisonment provided in the subdivision under which the second or subsequent conviction occurs.

- (4) For purposes of this subsection, the term 'person' shall mean, in addition to the definition contained in G.S. 143-213, any responsible corporate or public officer or employee; Provided, however, that where a vote of the people is required to effectuate the intent and purpose of this Article by a county, city, town, or other political subdivision of the State, and the vote on the referendum is against the means or machinery for carrying said intent and purpose into effect, then, and only then, this subsection shall not apply to elected officials or to any responsible appointed officials or employees of such county, city, town, or political subdivision.

(c) Injunctive relief. Whenever the Department of Natural and Economic Resources has reasonable cause to believe that any person has violated or is threatening to violate any of the provisions of this Part or any regulations adopted by the Board implementing the provisions of this Part, the Department of Natural and Economic Resources, either before or after the institution of any other action or proceeding authorized by this Article, request the Attorney General to institute a civil action in the name of the State upon the relation of the Department of Natural and Economic Resources for injunctive relief to restrain the violation or threatened violation and for such other and further relief in the premises as the court shall deem proper. The Attorney General may institute such action in the Superior Court of Wake County, or, in his discretion, in the superior court of the county in which the violation occurred or may occur. Upon a determination by the court that the alleged violation of the provisions of this Article or the regulation of the Board has occurred or is threatened, the court shall grant the relief necessary to prevent or abate the violation or threatened violation. Neither the institution of the action nor any of the proceedings thereon shall relieve any party to such proceedings from any penalty prescribed for violation of this Part."

Sec. 7. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 8. This act shall become effective September 1, 1973.

In the General Assembly read three times and ratified, this the 24th day of May, 1973.

H. B. 329

CHAPTER 822

AN ACT TO CONSOLIDATE, REVISE, AND AMEND THE GENERAL STATUTES RELATING TO COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 153 of the General Statutes is repealed, except as provided in Sections 2, 3, and 4, of this act, and a new Chapter 153 is inserted in the General Statutes as follows:

"CHAPTER 153

"COUNTIES

"Article 1

"Definitions and Statutory Construction

"§ 153-1. *Definitions.*—Unless otherwise specifically provided, or unless otherwise clearly required by the context, the words and phrases defined in this section have the meaning indicated when used in this chapter.

(1) 'City' means a city as defined by G.S. 160A-1(2), except that it does not include a city that, without regard to its date of incorporation, would be disqualified from receiving gasoline tax allocations by G.S. 136-41.2(a).

(2) 'Clerk' means the clerk to the board of commissioners.

(3) 'County' means any one of the counties listed in G.S. 153-10.

(4) 'General law' means an act of the General Assembly that applies to all units of local government, to all counties, to all counties within a class defined by population or other criteria, to all cities, or to all cities within a class defined by population or other criteria, including a law that meets the foregoing standards but contains a clause or section exempting from its effect one or more counties, cities, or counties and cities.

(5) 'Local act' means an act of the General Assembly that applies to one or more specific counties, cities, or counties and cities by name. 'Local act' is interchangeable with the terms 'special act,' 'special law,' 'public-local act,' and 'private act,' is used throughout this chapter in preference to those terms, and means a local act as defined in this paragraph without regard to the terminology employed in local acts or other portions of the General Statutes.

(6) 'Publish,' 'publication,' and other forms of the verb 'to publish' mean insertion in a newspaper qualified under G.S. 1-597 to publish legal advertisements in the county.

"§ 153-2. *Effect on prior laws and actions taken pursuant to prior laws.*—The provisions of this chapter, insofar as they are the same in substance as laws in effect as of December 31, 1973, are intended to continue those laws in effect and not to be new enactments. The enactment of this chapter does not require the readoption of any county or city ordinance adopted pursuant to laws that were in effect as of December 31, 1973, and that are restated or revised in this chapter. The provisions of this chapter do not affect any act heretofore done, any liability incurred, any right accrued or vested, or any suit or prosecution begun or cause of action accrued as of January 1, 1974.

"§ 153-3. *Effect of chapter on local acts.*—(a) Except as provided in this section, nothing in this chapter repeals or amends a local act in effect as of January 1, 1974, or any portion of such an act, unless this chapter or a subsequent enactment of the General Assembly clearly shows a legislative intent to repeal or supersede that local act.

(b) If this chapter and a local act each provide a procedure that contains every action necessary for the performance or execution of a power, right, duty, function, privilege, or immunity, the two procedures may be used in the alternative, and a county may follow either one.

(c) If this chapter and a local act each provide a procedure for the performance or execution of a power, right, duty, function, privilege, or immunity, but the local act procedure does not contain every action necessary for the performance or execution, the two procedures may be used in the alternative, and a county may follow either one; but the local act procedure shall be supplemented as necessary by this chapter's procedure. If a local act procedure is being supplemented in such a manner, and there is a conflict or inconsistency between the local act procedure and this chapter's procedure, the local act procedure shall be followed.

(d) If a power, right, duty, function, privilege, or immunity is conferred on counties by this chapter, and a local act enacted earlier than this chapter omits or expressly denies or limits the same power, right, duty, function, privilege, or immunity, this chapter supersedes the local act.

"§ 153-4. *Broad construction.*—It is the policy of the General Assembly that the counties of this State should have adequate authority to exercise the powers, rights, duties, functions, privileges, and immunities conferred upon them by law. To this end, the provisions of this chapter and of local acts shall be broadly construed and grants of power shall be construed to include any powers that are reasonably expedient to the exercise of the power.

"§ 153-5. *Statutory references deemed amended to conform to chapter.*—If a reference is made in another portion of the General Statutes, in a local act, or in a city or county ordinance, resolution, or order to a portion of G.S. Chapter 153, and the reference is to G.S. Chapter 153 as it existed immediately before the effective date of this act, the reference is deemed amended to refer to that portion of this chapter that most nearly corresponds to the repealed or superseded portion of G.S. Chapter 153.

"Article 2

"Corporate Powers

"§ 153-10. *State has 100 counties.*—North Carolina has 100 counties. They are: Alamance, Alexander, Alleghany, Anson, Ashe, Avery, Beaufort, Bertie, Bladen, Brunswick, Buncombe, Burke, Cabarrus, Caldwell, Camden, Carteret, Caswell, Catawba, Chatham, Cherokee, Chowan, Clay, Cleveland, Columbus, Craven, Cumberland, Currituck, Dare, Davidson, Davie, Duplin, Durham, Edgecombe, Forsyth, Franklin, Gaston, Gates, Graham, Granville, Greene, Guilford, Halifax, Harnett, Haywood, Henderson, Hertford, Hoke, Hyde, Iredell, Jackson, Johnston, Jones, Lee, Lenoir, Lincoln, Macon, Madison, Martin, McDowell, Mecklenburg, Mitchell, Montgomery, Moore, Nash, New Hanover, Northampton, Onslow, Orange, Pamlico, Pasquotank, Pender, Perquimans, Person, Pitt, Polk, Randolph, Richmond, Robeson, Rockingham, Rowan, Rutherford, Sampson, Scotland, Stanly, Stokes, Surry, Swain, Transylvania, Tyrrell, Union, Vance, Wake, Warren, Washington, Watauga, Wayne, Wilkes, Wilson, Yadkin, and Yancey.

"§ 153-11. *Corporate powers.*—The inhabitants of each county are a body politic and corporate under the name specified in the act creating the county. Under that name they are vested with all the property and rights of property belonging to the corporation; have perpetual succession; may sue and be sued;

may contract and be contracted with; may acquire and hold any property and rights of property, real and personal, that may be devised, bequeathed, sold, or in any manner conveyed, dedicated to, or otherwise acquired by the corporation, and from time to time may hold, invest, sell, or dispose of the property and rights of property; may have a common seal and alter and renew it at will; and have and may exercise in conformity with the laws of this State county powers, rights, duties, functions, privileges, and immunities of every name and nature.

“§ 153-12. *Exercise of corporate power.*—Except as otherwise directed by law, each power, right, duty, function, privilege, and immunity of the corporation shall be exercised by the board of commissioners. A power, right, duty, function, privilege, or immunity shall be carried into execution as provided by the laws of the State; a power, right, duty, function, privilege, or immunity that is conferred or imposed by law without direction or restriction as to how it is to be exercised or performed shall be carried into execution as provided by ordinance or resolution of the board of commissioners.

“§ 153-13. *Continuing contracts.*—A county may enter into continuing contracts, some portion or all of which are to be performed in ensuing fiscal years. In order to enter into such a contract, the county must have sufficient funds appropriated to meet any amount to be paid under the contract in the fiscal year in which it is made. In each year, the board of commissioners shall appropriate sufficient funds to meet the amounts to be paid during the fiscal year under continuing contracts previously entered into.

“§ 153-14. *Grants from other governments.*—A county may contract for and accept grants and loans as permitted by G.S. 160A-17.1.

“Article 3

“Boundaries

“§ 153-17. *Existing boundaries.*—The boundaries of each county shall remain as presently established, until changed in accordance with law.

“§ 153-18. *Uncertain or disputed boundary.*—(a) If two or more counties are uncertain as to the exact location of the boundary between them, they may cause the boundary to be surveyed, marked, and mapped. The counties may appoint special commissioners to supervise the surveying, marking, and mapping. A commissioner so appointed or a person surveying or marking the boundary may enter upon private property to view and survey the boundary or to erect boundary markers. Upon ratification of the survey by the board of commissioners of each county, a map showing the surveyed boundary shall be recorded in the office of the register of deeds of each county in the manner provided by law for the recordation of maps or plats and in the Secretary of State's office. The map shall contain a reference to the date of each resolution of ratification and to the page in the minutes of each board of commissioners where the resolution may be found. Upon recordation, the map is conclusive as to the location of the boundary.

(b) If two or more counties dispute the exact location of the boundary between them, and the dispute cannot be resolved pursuant to subsection (a) of this section, any of the counties may apply to a resident or presiding superior court judge in the judicial district or districts in which the counties are located for appointment of a boundary commission. The application shall identify the disputed boundary and ask that a boundary commission be appointed. Upon receiving the application, the court shall set a date for a hearing on whether to appoint the commission. The court shall cause notice of the hearing to be served

on the other county or counties. If, after the hearing, the court finds that the location of the boundary is disputed, it shall appoint a boundary commission.

The commission shall consist of one resident of each disputing county and a resident of some other county. The court may appoint one or more surveyors to assist the commission. The commission shall locate, survey, and map and may mark the disputed boundary. To do so it may take evidence and hear testimony, and any commissioner and any person surveying or marking the boundary may enter upon private property to view and survey the boundary or to erect boundary markers. Within forty-five days after the day it is appointed, unless this time is extended by the court, the commission shall make its report (which shall include a map of the surveyed boundary) to the court. To be sufficient, the report must be concurred in by a majority of the commissioners. If the court is satisfied that the commissioners have made no error of law, it shall ratify the report, after which the map shall be recorded in the office of the register of deeds of each county in the manner provided by law for the recordation of maps or plats and in the Secretary of State's office. Upon recordation, the map is conclusive as to the location of the boundary.

The disputing counties shall divide equally the costs of locating, surveying, marking, and mapping the boundary, unless the court finds that an equal division of the costs would be unjust. In that case the court may determine the division of costs.

“§ 153-19. *Establishing and naming townships.*—A county may by resolution establish and abolish townships, change their boundaries, and prescribe their names. The current boundaries of each township within a county shall at all times be drawn on a map, or set out in a written description, or shown by a combination of these techniques. This current delineation shall be available for public inspection in the office of the clerk.

“§ 153-20. *Map of electoral districts.*—If a county is divided into electoral districts for the purpose of nominating or electing persons to the board of commissioners, the current boundaries of the electoral districts shall at all times be drawn on a map, or set out in a written description, or shown by a combination of these techniques. This current delineation shall be available for public inspection in the office of the clerk.

“§ 153-21. *Redefining electoral district boundaries.*—(a) If a county is divided into electoral districts for the purpose of nominating or electing persons to the board of commissioners, the board of commissioners may find as a fact whether there is substantial inequality of population among the districts.

(b) If the board finds that there is substantial inequality of population among the districts, it may by resolution

(1) redefine the electoral districts and, if necessary, either reapportion commissioners among the redefined districts or reapportion one or more commissioners to the county at large and the remainder among the redefined districts, or

(2) abolish electoral districts in the county and provide that elections to the board of commissioners shall be at large.

(c) Redefined electoral districts shall be so drawn that the quotients obtained by dividing the population of each district by the number of commissioners apportioned to the district are as nearly equal as practicable, and each district shall be composed of territory within a continuous boundary.

(d) No change in the boundaries of an electoral district may affect the unexpired term of office of a commissioner residing in the district and serving on the board on the effective date of the resolution. If the terms of office of members of the board do not all expire at the same time, the resolution shall state which seats are to be filled at the initial election held under the resolution.

(e) A resolution adopted pursuant to this section shall be the basis of electing persons to the board of commissioners at the first general election for members of the board of commissioners occurring after the resolution's effective date, and thereafter. A resolution becomes effective upon its adoption, unless it is adopted during the period beginning 60 days before the day of a primary and ending on the day of the next succeeding general election for membership on the board of commissioners, in which case it becomes effective on the first day after the end of the period.

(f) Not later than 10 days after the day on which a resolution becomes effective, the clerk shall file in the Secretary of State's office, in the office of the register of deeds of the county, and with the chairman of the county board of elections a certified copy of the resolution.

"Article 4

"Form of Government

"Part 1. General Provisions

"§ 153-25. *Qualifications for appointive office.*—The board of commissioners may fix qualifications for any appointive office, including a requirement that a person serving in such an office reside within the county. The board may not waive qualifications fixed by law for an appointive office but may fix additional qualifications for that office.

"§ 153-26. *Oath of office.*—Each person elected by the people or appointed to a county office shall, before entering upon the duties of the office, take and subscribe the oath of office prescribed in Article VI, § 7 of the Constitution. The oath of office shall be administered by some person authorized by law to administer oaths and shall be filed with the clerk.

On the first Monday in December following each general election at which county officers are elected, the persons who have been elected to county office in that election shall assemble at the regular meeting place of the board of commissioners. At that time each such officer shall take and subscribe the oath of office. An officer not present at this time may take and subscribe the oath at a later time.

"§ 153-27. *Vacancies on the board of commissioners.*—If a vacancy occurs on the board of commissioners, the remaining members of the board shall appoint a qualified person to fill the vacancy. If the number of vacancies on the board is such that a quorum of the board cannot be obtained, the chairman of the board shall appoint enough members to make up a quorum, and the board shall then proceed to fill the remaining vacancies. If the number of vacancies on the board is such that a quorum of the board cannot be obtained and the office of chairman is vacant, the clerk of superior court of the county shall fill the vacancies upon the request of any remaining member of the board or upon the petition of any five registered voters of the county. If for any other reason the remaining members of the board do not fill a vacancy within 60 days after the day the vacancy occurs, the clerk shall immediately report the vacancy to the clerk of superior court of the county. The clerk of superior court shall, within 10 days after the day the vacancy is reported to him, fill the vacancy.

If the member being replaced was serving a two-year term, or was in the last two years of a four or six-year term, the appointment to fill the vacancy is for the remainder of the unexpired term. Otherwise, the term of the person appointed to fill the vacancy extends to the first Monday in December next following the first general election held more than 30 days after the day the vacancy occurs; at that general election, a person shall be elected to the seat vacated, either to the remainder of the unexpired term or, if the term has expired, to a full term.

To be eligible for appointment to fill a vacancy, a person must (i) be a member of the same political party as the member being replaced, if that member was elected as the nominee of a political party, and (ii) be a resident of the same district as the member being replaced, if the county is divided into electoral districts. The board of commissioners or the clerk of superior court, as the case may be, shall consult the county executive committee of the appropriate political party before filling a vacancy, but neither the board nor the clerk of the superior court is bound by the committee's recommendation.

"§ 153-28. *Compensation of board of commissioners.*—The board of commissioners may fix the compensation and allowances of the chairman and other members of the board by inclusion of the compensation and allowances in and adoption of the budget ordinance. In addition, if the chairman or any other member of the board becomes a full-time county official, pursuant to G.S. 153-81 or 153-84, his compensation and allowances may be adjusted at any time during his service as a full-time official, for the duration of that service.

"§ 153-29. *Fidelity bonds.*—(a) Each officer, employee, or agent of a county who handles or has in his custody more than one hundred dollars (\$100.00) of county funds at any time shall, before being entitled to assume his duties, give bond with sufficient sureties payable to the county that he will faithfully perform the duties of his office, employment, or agency and will render a true accounting for all county funds that may come into his custody or control. The board of commissioners shall determine the amount of the bond. Unless the bond is otherwise required by law, the board may waive the faithful performance bond, but it may not waive the true accounting bond. The county may pay the premium on any bond. Each bond, when approved by the board of commissioners, shall be deposited with the clerk.

If another statute requires an officer, employee, or agent to be bonded, this subsection does not require an additional bond for that officer, employee, or agent.

(b) A county may adopt a system of blanket faithful performance or true accounting bonding as an alternative to individual bonds. If such a system is adopted, statutory requirements of individual bonds, except for elected county officers and for finance officers and tax collectors by whatever title known, do not apply to an officer, employee, or agent covered by the blanket bond.

"Part 2. Structure of the Board of Commissioners

"§ 153-34. *Structure of boards of commissioners.*—Each county is governed by a board of commissioners. The structure and manner of election of the board of commissioners in each county shall remain as it is on the effective date of this act, until changed in accordance with law."

"Part 3. Organization and Procedures of the Board of

Commissioners

“§ 153-39. *Selection of chairman and vice-chairman; powers and duties.*—At its first regular meeting in December of each year, the board of commissioners shall choose one of its members as chairman for the ensuing year, unless the chairman is elected as such by the people or otherwise designated by law. The board shall also at that time choose a vice-chairman to act in the absence or disability of the chairman. If the chairman and the vice-chairman are both absent from a meeting of the board, the members present may choose a temporary chairman.

The chairman is the presiding officer of the board of commissioners. Unless excused by rule of the board, the presiding officer has the duty to vote on any question before the board, but he has no right to break a tie vote in which he participated.

“§ 153-40. *Regular and special meetings.*—(a) The board of commissioners shall hold a regular meeting at least once a month, and may hold more frequent regular meetings. The board may by resolution fix the time and place of its regular meetings. If such a resolution is adopted, at least 10 days before the first meeting to which the resolution is to apply, the board shall cause a copy of it to be posted on the courthouse bulletin board and a summary of it to be published. If no such resolution is adopted, the board shall meet at the courthouse on the first Monday of each month, or on the next succeeding business day if the first Monday is a holiday.

If use of the courthouse or other designated regular meeting place is made temporarily impossible, inconvenient, or unwise, the board may change the time or place or both of a regular meeting or of all regular meetings within a specified period of time. The board shall cause notice of the temporary change to be posted at or near the regular meeting place and shall take any other action it considers helpful in informing the public of the temporary change.

The board may adjourn a regular meeting from day to day or to a day certain until the business before the board is completed.

(b) The chairman or a majority of the members of the board may at any time call a special meeting of the board of commissioners by signing a written notice stating the time and place of the meeting and the subjects to be considered. The person or persons calling the meeting shall cause the notice to be delivered to the chairman and each other member of the board or left at the usual dwelling place of each at least 48 hours before the meeting and shall cause a copy of the notice to be posted on the courthouse bulletin board at least 48 hours before the meeting. Only those items of business specified in the notice may be transacted at a special meeting, unless all members are present or those not present have signed a written waiver.

If a special meeting is called to deal with an emergency, the notice requirements of this subsection do not apply. However, the person or persons calling such a special meeting shall take reasonable action to inform the other members and the public of the meeting. Only business connected with the emergency may be discussed at a meeting called pursuant to this paragraph.

(c) The board of commissioners shall hold all its meetings within the county.

“§ 153-41. *Procedures.*—The board of commissioners may adopt its own rules of procedure, in keeping with the size and nature of the board and in the spirit of generally accepted principles of parliamentary procedure.

“§ 153-42. *Minutes to be kept; ayes and noes.*—The clerk shall keep full and accurate minutes of the proceedings of the board of commissioners, which shall be available for public inspection. The clerk shall record the results of each vote in the minutes; and upon the request of any member of the board, the ayes and noes upon any question shall be taken and recorded.

“§ 153-43. *Quorum.*—A majority of the membership of the board of commissioners constitutes a quorum. The number required for a quorum is not affected by vacancies. If a member has withdrawn from a meeting without being excused by majority vote of the remaining members present, he shall be counted as present for the purposes of determining whether a quorum is present. The board may compel the attendance of an absent member by ordering the sheriff to take the member into custody.

“§ 153-44. *Members excused from voting.*—The board may excuse a member from voting, but only upon questions involving his own financial interest or his official conduct. (For purposes of this section, the question of the compensation and allowances of members of the board does not involve a member's own financial interest or official conduct.)

“§ 153-45. *Adoption of ordinances.*—To be adopted at the meeting at which it is first introduced, an ordinance or any action having the effect of an ordinance (except the budget ordinance, any bond order, or any other ordinance on which a public hearing must be held before the ordinance may be adopted) must receive the approval of all the members of the board of commissioners. If the ordinance is approved by a majority of those voting but not by all the members of the board, or if the ordinance is not voted on at that meeting, it shall be considered at the next regular meeting of the board. If it then or at any time thereafter within 100 days of its introduction receives a majority of the votes cast, a quorum being present, the ordinance is adopted.

“§ 153-46. *Franchises.*—No ordinance making a grant, renewal, extension, or amendment of any franchise may be finally adopted until it has been passed at two regular meetings of the board of commissioners. No such grant, renewal, extension, or amendment may be made except by ordinance.

“§ 153-47. *Technical ordinances.*—Subject to G.S. 143-138(e), a county may in an ordinance adopt by reference a published technical code or a standard or regulation promulgated by a public agency. A technical code or standard or regulation so adopted has the force of law in any area of the county in which the ordinance is applicable. An official copy of a technical code or standard or regulation adopted by reference shall be available for public inspection in the office of the clerk and need not be filed in the ordinance book.

“§ 153-48. *Ordinance book.*—The clerk shall maintain an ordinance book, separate from the minute book of the board of commissioners. The ordinance book shall be indexed and shall be available for public inspection in the office of the clerk. Except as provided in this section and in G.S. 153-47, each county ordinance shall be filed and indexed in the ordinance book.

The budget ordinance and any amendments thereto, any bond order, and any other ordinance of limited interest or transitory nature may be omitted from the ordinance book. However, the ordinance book shall contain a section showing the caption of each omitted ordinance and the page in the commissioners' minute book at which the ordinance may be found.

If a county adopts and issues a code of its ordinances, county ordinances need be recorded and indexed in the ordinance book only until they are placed in the codification.

“§ 153-49. *Code of ordinances.*—A county may adopt and issue a code of its ordinances. The code may be reproduced by any method that gives legible and permanent copies, and may be issued as a securely bound book or books with periodic separately bound supplements, or as a loose-leaf book maintained by replacement pages. Supplements or replacement pages should be adopted and issued at least annually, unless there have been no additions to or modifications of the code during the year.

A code may consist of two parts, the ‘General Ordinances’ and the ‘Technical Ordinances.’ The technical ordinances may be published as separate books or pamphlets, and may include ordinances regarding the construction of buildings, the installation of plumbing and electric wiring, and the installation of cooling and heating equipment; ordinances regarding the use of public utilities, buildings, or facilities operated by the county; the zoning ordinance; the subdivision control ordinance; the privilege license tax ordinance; and other similar ordinances designated as technical ordinances by the board of commissioners. The board may omit from the code the budget ordinance, any bond orders, and other designated classes of ordinances of limited interest or transitory nature, but the code shall clearly describe the classes of ordinances omitted from it.

The board of commissioners may provide that ordinances (i) establishing or amending the boundaries of county zoning areas or (ii) establishing or amending the boundaries of zoning districts shall be codified by appropriate entries upon official map books to be retained permanently in the office of the clerk or some other county office generally accessible to the public.

“§ 153-50. *Pleading and proving county ordinances.*—County ordinances shall be pleaded and proved under the rules and procedures of G.S. 160A-79. References to G.S. 160A-77 and G.S. 160A-78 appearing in G.S. 160A-79 are deemed, for purposes of this section, to refer to G.S. 153-49 and G.S. 153-48, respectively.

“§ 153-52. *Conduct of public hearing.*—The board of commissioners may hold public hearings at any place within the county. The board may adopt reasonable rules governing the conduct of public hearings, including but not limited to rules (i) fixing the maximum time allotted to each speaker, (ii) providing for the designation of spokesmen for groups of persons supporting or opposing the same position, (iii) providing for the selection of delegates from groups of persons supporting or opposing the same positions when the number of persons wishing to attend the hearing exceeds the capacity of the hall, and (iv) providing for the maintenance of order and decorum in the conduct of the hearing.

The board may continue a public hearing without further advertisement. If a public hearing is set for a given date and a quorum of the board is not then present, the board shall continue the hearing without further advertisement until its next regular meeting.

“Part 4. Modification in the Structure of the Board of

Commissioners

“§ 153-58. *Optional structures.*—A county may alter the structure of its board of commissioners by adopting one or any combination of the options prescribed by this section.

(1) Number of members of the board of commissioners:

The board may consist of any number of members not less than three, except as limited by subsection 2(d) of this section.

(2) Terms of office of members of the board of commissioners:

a. Members shall be elected for two-year terms of office.

b. Members shall be elected for four-year terms of office.

c. Members shall be elected for overlapping four-year terms of office.

d. The board shall consist of an odd number of members, who are elected for a combination of four and two-year terms of office, so that a majority of members is elected each two years. This option may be used only if all members of the board are nominated and elected by the voters of the entire county, and only if the chairman of the board is elected by and from the members of the board.

(3) Mode of election of the board of commissioners:

a. The qualified voters of the entire county shall nominate all candidates for and elect all members of the board.

For options b, c, and d, the county shall be divided into electoral districts, and board members shall be apportioned to the districts so that the quotients obtained by dividing the population of each district by the number of commissioners apportioned to the district are as nearly equal as practicable.

b. The qualified voters of each district shall nominate candidates and elect members who reside in the district for seats apportioned to that district; and the qualified voters of the entire county shall nominate candidates and elect members apportioned to the county at large, if any.

c. The qualified voters of each district shall nominate candidates who reside in the district for seats apportioned to that district, and the qualified voters of the entire county shall nominate candidates for seats apportioned to the county at large, if any; and the qualified voters of the entire county shall elect all the members of the board.

d. Members shall reside in and represent the districts according to the apportionment plan adopted, but the qualified voters of the entire county shall nominate all candidates for and elect all members of the board.

If any of options b, c, or d is adopted, the board shall divide the county into the requisite number of electoral districts according to the apportionment plan adopted, and shall cause a delineation of the districts so laid out to be drawn up and filed as required by G.S. 153-20. No more than half the board may be apportioned to the county at large.

(4) Selection of chairman of the board of commissioners:

a. The board shall elect a chairman from among its membership to serve a one-year term, as provided by G.S. 153-39.

b. The chairmanship shall be a separate office. The qualified voters of the entire county nominate candidates for and elect the chairman for a two or four-year term.

“§ 153-59. *Implementation when board has members serving a combination of four and two-year terms.*—If the structure of the board of commissioners is altered to establish a board with an odd number of members serving a combination of four and two-year terms of office, the new structure shall be implemented as follows:

At the first election all members of the board shall be elected. A simple majority of those elected shall be elected for two-year terms, and the remaining members shall be elected for four-year terms. The candidate or candidates receiving the highest number of votes shall be elected for the four-year terms.

At each subsequent general election, a simple majority of the board shall be elected. That candidate who is elected with the least number of votes shall be elected for a two-year term, and the other member or members elected shall be elected for four-year terms.

“§ 153-60. *Initiation of alterations by resolution.*—The board of commissioners shall initiate any alteration in the structure of the board by adopting a resolution. The resolution shall:

- (1) Briefly but completely describe the proposed alterations;
- (2) Prescribe the manner of transition from the existing structure to the altered structure;
- (3) Define the electoral districts, if any, and apportion the members among the districts;
- (4) Call a referendum on the question of adoption of the alterations. The referendum may be held at the same time as any other referendum or election in the county, but may not otherwise be held within the period of time beginning 30 days before and ending 30 days after the day of any other referendum or election conducted by the county board of elections and already validly called or scheduled by law at the time the referendum on alteration of structure is called. In addition, the referendum may not be held during the period beginning 30 days before the last day for filing notice of candidacy for county offices and ending on the day before the next succeeding general election.

Upon its adoption, the resolution shall be published in full.

“§ 153-61. *Submission of proposition to voters; form of ballot.*—A proposition to approve an alteration shall be printed on the ballot in substantially the following form:

‘Shall the structure of the board of commissioners
be altered? (Describe the effect of the alteration.)

☐ YES

☐ NO’

The ballot shall be separate from other ballots used at the election.

If a majority of the votes cast on the proposition are in the affirmative, the plan contained in the resolution shall be put into effect as provided in this part. If a majority of the votes cast are in the negative, the resolution and the plan contained therein are void.

“§ 153-62. *Effective date of any alteration.*—Any approved alteration shall be the basis for nominating and electing the members of the board of commissioners at the first succeeding primary and general election for county offices held after approval of the alteration; and the alteration takes effect on the first Monday in December following that general election.

“§ 153-63. *Filing copy of resolution; notice to Revisor of Statutes.*—A copy of a resolution approved pursuant to this part shall be filed and indexed in the ordinance book required by G.S. 153-47.

“Article 5

“Administration

“Part 1. Organization and Reorganization of County Government

“§ 153-76. *Board of commissioners to organize county government.*—The board of commissioners may create, change, abolish, and consolidate offices, positions, departments, boards, commissions, and agencies of the county government, may impose ex-officio the duties of more than one office on a single officer, may change the composition and manner of selection of boards, commissions, and agencies, and may generally organize and reorganize the county government in order to promote orderly and efficient administration of county affairs, subject to the following limitations:

(1) The board may not abolish an office, position, department, board, commission, or agency established or required by law.

(2) The board may not combine offices or confer certain duties on the same officer when this action is specifically forbidden by law.

(3) The board may not discontinue or assign elsewhere a function or duty assigned by law to a particular office, position, department, board, commission, or agency.

(4) The board may not change the composition or manner of selection of a local board of education, the board of health, the board of social services, the board of elections, or the board of alcoholic beverage control.

“Part 2. Administration in Counties Having Managers

“§ 153-81. *Adoption of county-manager plan; appointment or designation of manager.*—The board of commissioners may by resolution adopt or discontinue the county-manager plan. If it adopts the county-manager plan, the board may, in the alternative:

(1) Appoint a county manager to serve at its pleasure. The manager shall be appointed solely on the basis of his executive and administrative qualifications. He need not be a resident of the county or the State at the time of his appointment.

(2) Confer upon the chairman or some other member of the board of commissioners the duties of county manager. If this is done, the chairman or member shall become a full-time county official, and the board may increase his salary pursuant to G.S. 153-28.

(3) Confer upon any other officer, employee, or agent of the county the duties of county manager.

As used in this part, the word ‘manager’ includes the chairman or any member of the board of commissioners exercising the duties of manager or any officer, employee, or agent of a county exercising the duties of manager.

“§ 153-82. *Powers and duties of manager.*—The manager is the chief administrator of county government. He is responsible to the board of commissioners for the administration of all departments of county government under the board’s general control and has the following powers and duties:

(1) He shall appoint with the approval of the board of commissioners and suspend or remove all county officers, employees, and agents except those who are elected by the people or whose appointment is otherwise provided for by law. The board may by resolution permit the manager to appoint officers, employees,

and agents without first securing the board's approval. The manager shall make his appointments, suspensions, and removals in accordance with any general personnel rules, regulations, policies, or ordinances that the board may adopt. The board may require the manager to report each suspension or removal to the board at the board's first regular meeting following the suspension or removal; and, if the board has permitted the manager to make appointments without board approval, the board may require the manager to report each appointment to the board at the board's first regular meeting following the appointment.

(2) He shall direct and supervise the administration of all county offices, departments, boards, commissions, and agencies under the general control of the board of commissioners, subject to the general direction and control of the board.

(3) He shall attend all meetings of the board of commissioners and recommend any measures that he considers expedient.

(4) He shall see that the orders, ordinances, resolutions, and regulations of the board of commissioners are faithfully executed within the county.

(5) He shall prepare and submit the annual budget and capital program to the board of commissioners.

(6) He shall annually submit to the board of commissioners and make available to the public a complete report on the finances and administrative activities of the county as of the end of the fiscal year.

(7) He shall make any other reports that the board of commissioners may require concerning the operations of county offices, departments, boards, commissions, and agencies.

(8) He shall perform any other duties that may be required or authorized by the board of commissioners.

"§ 153-83. *Acting county manager.*—By letter filed with the clerk, the manager may designate, subject to the approval of the board of commissioners, a qualified person to exercise the powers and perform the duties of manager during the manager's temporary absence or disability. During an absence or disability, the board may revoke the designation at any time and appoint another person to serve until the manager returns or his disability ceases.

"§ 153-84. *Interim county manager.*—Whenever the position of county manager is vacant, the board of commissioners shall designate a qualified person to exercise the powers and perform the duties of manager until the vacancy is filled. The board may designate the chairman or some other member as interim manager; for the interim the chairman or member shall become a full-time county official, and the board may increase his salary pursuant to G.S. 153-28.

"Part 3. Administration in Counties Not Having Managers

"§ 153-87. *Administration in counties not having managers.*—In a county that has not adopted or does not operate under the county-manager plan, the board of commissioners shall appoint, suspend, and remove all county officers, employees, and agents except those who are elected by the people or whose appointment is otherwise provided for by law. The board may delegate to the head of any county department the power to appoint, suspend, and remove county officers or employees assigned to his department.

"§ 153-88. *Acting department heads.*—By letter filed with the clerk, the head of a department may designate, subject to the approval of the board of commissioners, a qualified person to exercise the powers and perform the duties of head of that department during the department head's temporary absence or

disability. During an absence or disability, the board may revoke the designation at any time and appoint another person to serve until the department head returns or his disability ceases.

“§ 153-89. *Interim department heads.*—Whenever the position of head of a department is vacant, the board may designate a qualified person to exercise the powers and perform the duties of head of the department until the vacancy is filled.

“Part 4. Personnel

“§ 153-92. *Compensation.*—(a) Subject to the limitations set forth in subsection (b) of this section, the board of commissioners shall fix or approve the schedule of pay, expense allowances, and other compensation of all county officers and employees, whether elected or appointed, and may adopt position classification plans.

(b) In exercising the authority granted by subsection (a) of this section, the board of commissioners is subject to the following limitations:

- (1) The board of commissioners may not reduce the salary, allowances, or other compensation paid to an officer elected by the people for the duties of his elective office if the reduction is to take effect during the term of office for which the incumbent officer has been elected, unless the officer agrees to the reduction or unless the Local Government Commission pursuant to G.S. Chapter 159, Article 10, orders a reduction.
- (2) During the year of a general election, the board of commissioners may reduce the salary, allowances, or other compensation of an officer to be elected at the general election only in accordance with this paragraph. The board of commissioners shall by resolution give notice of intention to make the reduction no later than 14 days before the last day for filing notice of candidacy for the office. The resolution shall set forth the reduced salary, allowances, and other compensation and shall provide that the reduction is to take effect at the time the person elected to the office in the general election takes office. Once adopted, the resolution may not be altered until the person elected to the office in the general election has taken office. The filing fee for the office shall be determined by reference to the reduced salary.
- (3) If the board of commissioners reduces the salaries, allowances, or other compensation of employees assigned to an officer elected by the people, and the reduction does not apply alike to all county offices and departments, the elected officer involved must approve the reduction. If the elected officer refuses to approve the reduction, he and the board of commissioners shall meet and attempt to reach agreement. If agreement cannot be reached, either the board or the officer may refer the dispute to arbitration by the senior regular resident superior court judge of the judicial district in which the county is located. The judge shall make an award within 30 days after the day the matter is referred to him. The award may extend for no more than two fiscal years, including the fiscal year for which it is made.
- (4) The board of commissioners shall fix their own salaries, allowances, and other compensation in accordance with G.S. 153-28.
- (5) The board of commissioners shall fix the salaries, allowances and other compensation of county employees subject to the State Personnel Act according to the procedures set forth in G.S. Chapter 126. The board

may make these employees subject to a county position classification plan only as provided in G.S. Chapter 126.

(c) In counties with a county manager, the manager is responsible for preparing position classification and pay plans for submission to the board of commissioners and for administering the pay plan and any position classification plan in accordance with general policies and directives adopted by the board. In counties without a county manager, the board of commissioners shall appoint or designate a personnel officer, who shall then be responsible for administering the pay plan and any position classification plan in accordance with general policies and directives adopted by the board.

(d) A county may purchase life insurance or health insurance or both for the benefit of all or any class of county officers and employees as a part of their compensation. A county may provide other fringe benefits for county officers and employees.

“§ 153-93. *Retirement benefits.*—(a) The board of commissioners may provide for enrolling county officers and employees in the Local Governmental Employees' Retirement System, the Law Enforcement Officers' Benefit and Relief Fund, the Firemen's Pension Fund, or a retirement plan certified to be actuarially sound by a qualified actuary as defined in subsection (c) of this section and may make payments into such a retirement system or plan on behalf of its employees.

(b) No county may make payments into a retirement system or plan established or authorized by a local act unless the system or plan is certified to be actuarially sound by a qualified actuary as defined in subsection (c) of this section.

(c) A qualified actuary means a member of the American Academy of Actuaries or an individual certified as qualified by the Commissioner of Insurance.

“§ 153-94. *Personnel rules; office hours, workdays, and holidays.*—(a) The board of commissioners may adopt or provide for rules and regulations or ordinances concerning but not limited to annual leave, sick leave, special leave with full pay or with partial pay supplementing workmen's compensation payments for employees injured in accidents arising out of and in the course of employment, working conditions, service award and incentive award programs, other personnel policies, and any other measures that promote the hiring and retention of capable, diligent, and honest career employees.

(b) The board of commissioners may prescribe the office hours, workdays, and holidays to be observed by the various offices, departments, boards, commissions, and agencies of the county.

“§ 153-95. *Personnel board.*—The board of commissioners may establish a personnel board with authority, as regards employees in offices, departments, boards, commissions, and agencies under the general control of the board of commissioners, to administer tests designed to determine the merit and fitness of candidates for appointment or promotion, to conduct hearings upon the appeal of employees who have been suspended, demoted, or discharged, to hear employee grievances, or to undertake any other duties relating to personnel administration that the board of commissioners may direct.

“§ 153-96. *Participation in the Social Security Act.*—The board of commissioners may take any action necessary to allow county officers and

employees to participate fully in benefits provided by the Federal Social Security Act.

“§ 153-97. *Defense of officers and employees.*—A county may, pursuant to G.S. 160A-167, provide for the defense of any county officer or employee, including the county board of elections or any county election official.

“Part 5. Board of Commissioners and Other Officers, Boards,
Departments, and Agencies of the County

“§ 153-101. *Board of commissioners to direct fiscal policy of the county.*—The board of commissioners has and shall exercise the responsibility of developing and directing the fiscal policy of the county government under the provisions and procedures of The Local Government Budget and Fiscal Control Act.

“§ 153-102. *Commissioners to fix fees.*—The board of commissioners may fix the fees and commissions charged by county officers and employees for performing services or duties permitted or required by law. The Board may not, however, fix fees in the general court of justice or modify the fees of the register of deeds prescribed by G.S. 161-10 or the fees of the board of elections prescribed by G.S. 163-107.

“§ 153-103. *Number of employees in office of sheriff and register of deeds.*—Subject to the limitations set forth below, the board of commissioners may fix the number of salaried employees in the offices of the sheriff and the register of deeds. In exercising the authority granted by this section, the board of commissioners is subject to the following limitations:

- (1) Each sheriff and register of deeds elected by the people has the exclusive right to hire, discharge, and supervise the employees in his office. However, the board of commissioners must approve the appointment by such an officer of a relative by blood or marriage of nearer kinship than first cousin or of a person who has been convicted of a crime involving moral turpitude.
- (2) Each sheriff and register of deeds elected by the people is entitled to at least one deputy, who shall be reasonably compensated by the county.

“§ 153-104. *Reports from officers, employees, and agents of the county.*—The board of commissioners may require any officer, employee, or agent of the county to make to the board, either directly or through the county manager, periodic or special reports concerning any matter connected with the officer's, employee's or agent's duties. The board may require that such a report be made under oath. If a person fails or refuses to obey a reasonable order to make a report, issued pursuant to this section, the board may apply to the appropriate division of the General Court of Justice for an order requiring that its order be obeyed. The court has jurisdiction to issue these orders.

“Part 6. Clerk to the Board of Commissioners

“§ 153-111. *Appointment; powers and duties.*—The board of commissioners shall appoint or designate a clerk to the board. The board may designate the register of deeds or any other county officer or employee as clerk. The clerk shall perform any duties that may be required by law or the board of commissioners. The clerk shall serve as such at the pleasure of the board.

“Part 7. County Attorney

“§ 153-114. *Appointment; duties.*—The board of commissioners shall appoint a county attorney to serve at its pleasure and to be its legal adviser.

“Article 6

“Delegation and Exercise of the General Police Power

“§ 153-121. *General ordinance making power.*—(a) A county may by ordinance define, regulate, prohibit, or abate acts, omissions, or conditions detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the county; and may define and abate nuisances.

(b) This section does not authorize a county to regulate or control vehicular or pedestrian traffic on a street or highway under the control of the State Highway Commission, nor to regulate or control any right-of-way or right-of-passage belonging to a public utility, electric or telephone membership corporation, or public agency of the State. In addition, no county ordinance may regulate or control a highway right-of-way in a manner inconsistent with State law or an ordinance of the State Highway Commission.

(c) This section does not impair the authority of local boards of health to adopt rules and regulations to protect and promote public health.

“§ 153-122. *Territorial jurisdiction of county ordinances.*—Except as otherwise provided in this article, the board of commissioners may make any ordinance adopted pursuant to this article applicable to any part of the county not within a city. In addition, the governing board of a city may by resolution permit a county ordinance adopted pursuant to this article to be applicable within the city. The city may by resolution withdraw its permission to such an ordinance. If it does so, the city shall give written notice to the county of its withdrawal of permission; 30 days after the day the county receives this notice the county ordinance ceases to be applicable within the city.

“§ 153-123. *Enforcement of ordinances.*—(a) A county may provide for fines and penalties for violation of its ordinances and may secure injunctions and abatement orders to further insure compliance with its ordinances, as provided by this section.

(b) Unless the board of commissioners has provided otherwise, violation of a county ordinance is a misdemeanor as provided by G.S. 14-4. An ordinance may provide by express statement that the maximum fine or term of imprisonment to be imposed for its violation is some amount of money or number of days less than the maximum fine or term prescribed by G.S. 14-4.

(c) An ordinance may provide that violation subjects the offender to a civil penalty to be recovered by the county in a civil action in the nature of debt if the offender does not pay the penalty within a prescribed period of time after he has been cited for violation of the ordinance.

(d) An ordinance may provide that it may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction. In such a case, the General Court of Justice has jurisdiction to issue any order that may be appropriate, and it is not a defense to the county's application for equitable relief that there is an adequate remedy at law.

(e) An ordinance that makes unlawful a condition existing upon or use made of real property may provide that it may be enforced by injunction and order of abatement, and the General Court of Justice has jurisdiction to issue such an order. When a violation of such an ordinance occurs, the county may apply to the appropriate division of the General Court of Justice for a mandatory or prohibitory injunction and order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property. The action shall be governed in all respects by the laws and rules governing civil

proceedings, including the Rules of Civil Procedure in general and Rule 65 in particular.

In addition to an injunction, the court may enter an order of abatement as a part of the judgment in the cause. An order of abatement may direct that buildings or other structures on the property be closed, demolished, or removed; that fixtures, furniture, or other movable property be removed from buildings on the property; that grass and weeds be cut; that improvements or repairs be made; or that any other action be taken that is necessary to bring the property into compliance with the ordinance. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he may be cited for contempt and the county may execute the order of abatement. If the county executes the order, it has a lien on the property, in the nature of a mechanic's and materialman's lien, for the costs of executing the order. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance with the order. The bond shall be given with sureties approved by the clerk of superior court in an amount approved by the judge before whom the matter was heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within the time fixed by the judge. Cancellation of an order of abatement does not suspend or cancel an injunction issued in conjunction with the order.

(f) Subject to the express terms of the ordinance, a county ordinance may be enforced by any one or more of the remedies authorized by this section.

(g) A county ordinance may provide, when appropriate, that each day's continuing violation is a separate and distinct offense.

"§ 153-124. *Enumeration not exclusive.*—The enumeration in this article or other portions of this chapter of specific powers to define, regulate, prohibit, or abate acts, omissions, or conditions is not exclusive, nor is it a limit on the general authority to adopt ordinances conferred on counties by G.S. 153-121.

"§ 153-125. *Regulation of solicitation campaigns and itinerant merchants.*—A county may by ordinance regulate, restrict, or prohibit the solicitation of contributions from the public for charitable or eleemosynary purposes, and also the business activities of itinerant merchants, salesmen, promoters, drummers, peddlers, and hawkers. These ordinances may include, but are not limited to, requirements that an application be made and a permit issued, that an investigation be made, that activities be reasonably limited as to time and place, that proper credentials and proof of financial stability be submitted, that not more than a stated percentage of contributions to solicitation campaigns be retained for administrative expenses, and that an adequate bond be posted to protect the public from fraud. A county may charge a fee for a permit issued pursuant to such an ordinance.

"§ 153-126. *Regulation of begging.*—A county may by ordinance prohibit or regulate begging or otherwise canvassing the public for contributions for the private benefit of the solicitor or any other person.

"§ 153-127. *Abuse of animals.*—A county may by ordinance define and prohibit the abuse of animals.

"§ 153-128. *Regulation of explosive, corrosive, inflammable, or radioactive substances.*—A county may by ordinance regulate, restrict, or prohibit the sale, possession, storage, use or conveyance of any explosive, corrosive, inflammable,

or radioactive substance or of any weapon or instrumentality of mass death and destruction.

“§ 153-129. *Firearms*.—A county may by ordinance regulate, restrict, or prohibit the discharge of firearms at any time or place except when used to take birds or animals pursuant to G.S. Chapter 113, Subchapter III, when used in defense of person or property, or when used pursuant to lawful directions of law enforcement officers. A county may also regulate the display of firearms on the public roads, sidewalks, alleys, or other public property. This section does not limit a county's authority to take action under G.S. Chapter 14, Article 36A.

“§ 153-130. *Pellet guns*.—A county may by ordinance regulate, restrict, or prohibit the sale, possession, or use of pellet guns or any other mechanism or device designed or used to project a missile by compressed air or mechanical action with less than deadly force.

“§ 153-131. *Possession or harboring of wild animals*.—A county may by ordinance regulate, restrict, or prohibit the possession or harboring of wild animals dangerous to person or property or offensive to the senses.

“§ 153-132. *Removal and disposal of abandoned and junked motor vehicles*.—(a) Grant of power.—A county may by ordinance prohibit the abandonment of motor vehicles on public grounds and private property within the county's ordinance-making jurisdiction and on county-owned property wherever located. The county may enforce the ordinance by removing and disposing of abandoned or junked motor vehicles according to the procedures prescribed in this section.

(b) Definitions.—‘Motor vehicle’ includes any machine designed or intended to travel over land or water by self-propulsion or while attached to self-propelled vehicle.

An ‘abandoned motor vehicle’ is one that:

- (1) Is left on public grounds or county-owned property in violation of a law or ordinance prohibiting parking; or
- (2) Is left for longer than 24 hours on property owned or operated by the county; or
- (3) Is left for longer than two hours on private property without the consent of the owner, occupant, or lessee of the property; or
- (4) Is left for longer than seven days on public grounds.

A ‘junked motor vehicle’ is an abandoned motor vehicle that also:

- (1) Is partially dismantled or wrecked; or
- (2) Cannot be self-propelled or moved in the manner in which it originally was intended to move; or
- (3) Is more than five years old and appears to be worth less than one hundred dollars (\$100.00); or
- (4) Does not display a current license plate.

(c) Removal of vehicles.—A county may remove to a storage garage or area an abandoned or junked motor vehicle found to be in violation of an ordinance adopted pursuant to this section. A vehicle may not be removed from private property, however, without the written request of the owner, lessee, or occupant of the premises unless the board of commissioners or a duly authorized county official or employee has declared the vehicle to be a health or safety hazard. Appropriate county officers and employees have a right, upon presentation of proper credentials, to enter on any premises within the county ordinance-making jurisdiction at any reasonable hour in order to determine if any vehicles are health or safety hazards. The county may require a person requesting the

removal from private property of an abandoned or junked motor vehicle to indemnify the county against any loss, expense, or liability incurred because of the vehicle's removal, storage, or sale.

When an abandoned or junked motor vehicle is removed, the county shall promptly give written notice of the removal to the registered owner at his last known address according to the latest registration certificate or certificate of title on file with the Department of Motor Vehicles. The notice shall inform the owner of the possible sale or other disposition that may be made of the vehicle under this section. The owner may regain possession of the vehicle by paying to the county all reasonable costs incidental to the removal and storage. If the vehicle does not display a current license plate and the vehicle identification numbers have been removed or defaced so as to be illegible, the county need not give notice to the vehicle's registered owner.

(d) Disposal of abandoned motor vehicles.—After holding an abandoned motor vehicle for 30 days after the day the vehicle is removed, the county may sell or dispose of it as provided in this subsection.

If the vehicle appears to be worth less than one hundred dollars (\$100.00), the county may dispose of the vehicle as a junked motor vehicle as provided by subsection (e) of this section. With the consent of the owner, the county may remove and dispose of a motor vehicle as a junked motor vehicle without regard to the value, condition, or age of the vehicle and without holding it for any prescribed period of time.

If the vehicle appears to be worth one hundred dollars (\$100.00) or more, it shall be sold at public auction. The county shall give 20 days written notice of the sale to the registered owner at his last known address, to each holder of a lien of record against the vehicle, and to the Department of Motor Vehicles. Any person having an interest in the vehicle may redeem it at any time before the sale by paying all costs accrued to date. The proceeds of the sale shall be paid to the county finance officer, who shall pay to the appropriate officers or persons the cost of removal, storage, investigation, sale, and liens, in that order. The remainder of the proceeds of sale, if any, shall be paid over to the registered owner, or held by the county for 60 days if the registered owner cannot be located with reasonable diligence. If the owner does not claim the remainder of the proceeds within 60 days after the day of the sale, the funds shall be deposited in the county's general fund and the owner's rights in the vehicle are extinguished. When it receives a county's bill of sale from a purchaser or other person entitled to receive a vehicle disposed of as provided in this subsection, the Department of Motor Vehicles shall issue a certificate of title for the vehicle as required by law.

(e) Disposal of junked motor vehicles.—After holding a junked motor vehicle for 15 days, the county may destroy it or sell it at private sale as junk. Within 15 days after final disposition of a junked motor vehicle, the county shall notify the Department of Motor Vehicles that the vehicle has been determined to be a junked motor vehicle and has been disposed of as such. The notice shall contain as full and accurate a description of the vehicle as can be reasonably determined. The proceeds of the sale of a junked motor vehicle shall be paid to the county finance officer, who shall pay to the appropriate officers or persons the cost of removal, storage, investigation, sale, and liens, in that order. The remainder of the proceeds of sale, if any, shall be held by the county for 30 days and paid to the registered owner upon demand. If the owner does not claim the remainder of

the proceeds within 30 days after the day the vehicle is disposed of, the funds shall be deposited in the county's general fund, and the owner's rights in the vehicle are extinguished.

(f) Disposal of vehicles without plates or identification numbers.—If a junked motor vehicle does not display a current license plate and the vehicle identification numbers have been removed or defaced so as to be illegible, a county may dispose of it under this subsection rather than subsections (d) or (e). The county may destroy the vehicle or sell it at private sale (without regard to value), after having held the vehicle for 48 hours. The proceeds shall be placed in the county's general fund.

(g) No liability.—No person nor any county may be held to answer in a civil or criminal action to any owner or other person legally entitled to the possession of an abandoned, junked, lost, or stolen motor vehicle for disposing of the vehicle as provided in this section.

(h) Exceptions.—This section does not apply to any vehicle in an enclosed building, to any vehicle on the premises of a business enterprise being operated in a lawful place and manner if the vehicle is necessary to the operation of the enterprise, or to any vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the county.

“§ 153-133. *Noise regulation.*—A county may by ordinance regulate, restrict, or prohibit the production or emission of noises or amplified speech, music, or other sounds that tend to annoy, disturb, or frighten its citizens.

“§ 153-134. *Regulating and licensing businesses, trades, etc.*—A county may by ordinance, subject to the general law of the State, regulate and license occupations, businesses, trades, professions, and forms of amusement or entertainment and prohibit those that may be inimical to the public health, welfare, safety, order, or convenience. In licensing trades, occupations, and professions, the county may, consistent with the general law of the State, require applicants for licenses to be examined and charge a reasonable fee therefor. This section does not authorize a county to examine or license a person holding a license issued by an occupational licensing board of this State as to the profession or trade that he has been licensed to practice or pursue by the State.

This section does not impair the county's power to levy privilege license taxes on occupations, businesses, trades, professions, and other activities pursuant to G.S. 153-152.

“§ 153-135. *Regulation of places of amusement.*—A county may by ordinance regulate places of amusement and entertainment, and may regulate, restrict, or prohibit the operation of pool and billiard halls, dance halls, carnivals, circuses, or itinerant shows or exhibitions of any kind. Places of amusement and entertainment include coffee houses, cocktail lounges, night clubs, beer halls, and similar establishments, but any regulation of such places shall be consistent with any permit or license issued by the State Board of Alcoholic Control.

“§ 153-136. *Regulation of solid wastes.*—(a) A county may by ordinance regulate the storage, collection, transportation, use, disposal, and other disposition of solid wastes. Such an ordinance may:

- (1) Regulate the activities of persons, firms, and corporations, both public and private.
- (2) Require each person wishing to commercially collect or dispose of solid wastes to secure a license from the county and prohibit any person from

commercially collecting or disposing of solid wastes without a license. A fee may be charged for a license.

- (3) Grant a franchise to one or more persons for the exclusive right to commercially collect or dispose of solid wastes within all or a defined portion of the county and prohibit any other person from commercially collecting or disposing of solid wastes in that area. The board of commissioners may set the terms of any franchise, except that no franchise may be granted for a period exceeding seven years, nor may any franchise by its terms impair the authority of the board of commissioners to regulate fees as authorized by this section.
- (4) Regulate the fees, if any, that may be charged by licensed or franchised persons for collecting or disposing of solid wastes.
- (5) Include any other proper matter.

(b) Any ordinance adopted pursuant to this section shall be consistent with and supplementary to any regulations adopted by the State Board of Health.

“§ 153-137. *Cable television franchises.*—Consistent with the rules and regulations of the Federal Communications Commission, a county may by ordinance grant upon reasonable terms franchises for the operation of cable television systems within any portion of the county, exclusive of incorporated areas and make it unlawful to operate such a system without a franchise. A franchise may not be granted for a period longer than the maximum term prescribed by the Federal Communications Commission.

As used in this section, ‘cable television system’ means a facility that, in whole or in part, receives directly or indirectly over the air and amplifies or otherwise modifies the signals transmitting programs broadcast by one or more television stations and distributes these signals by wire or cable to subscribing members of the public who pay for the service. ‘Cable television system’ does not include a facility that serves only the residents of one or more apartment dwellings under common ownership, control, or management and commercial establishments located on the premises of such an apartment dwelling.

“Article 7

“Taxation

“ 153-146. *General power to impose taxes.*—A county may impose taxes only as specifically authorized by act of the General Assembly. Except when the statute authorizing a tax provides for penalties and interest, the power to impose a tax includes the power to impose reasonable penalties for failure to declare tax liability, if required, and to impose penalties or interest for failure to pay taxes lawfully due within the time prescribed by law or ordinance. The power to impose a tax also includes the power to provide for its administration in a manner not inconsistent with the statute authorizing the tax.

“§ 153-147. *Remedies for collecting taxes other than property taxes.*—In addition to any other remedies provided by law, a county may collect any county tax by use of the remedies of levy and sale and attachment and garnishment, under the rules and according to the procedures prescribed by the Machinery Act (G.S. Chapter 105, Subchapter II) for the enforcement of tax liability against personal property. However, these remedies become available only on the due date of the tax and not before that time.

“§ 153-148. *Continuing taxes.*—Except for taxes levied on property under the Machinery Act (G.S. Chapter 105, Subchapter II), a county may impose any authorized tax by a permanent ordinance that shall stand from year to year until

amended or repealed, and it is not necessary to reimpose the tax in each annual budget ordinance.

“§ 153-149. *Property taxes.*—(a) Pursuant to Article V, § 2(5) of the Constitution of North Carolina, the General Assembly confers upon each county the power to levy, without restriction as to rate or amount, taxes on property having a situs within the county under the rules and according to the procedures prescribed in the Machinery Act (G.S. Chapter 105, Subchapter II), for the following purposes:

- (1) Administration. To provide for the general administration of the county through the board of commissioners, the office of the county manager, the office of the county finance officer, the office of the county tax supervisor, the office of the county tax collector, the county purchasing agent, the county attorney, and for all other general administrative costs not allocated to a particular office, department, board, commission, agency, or activity.
- (2) Agricultural Extension. To provide for the county's share of the cost of maintaining and administering services offered by, through, or in cooperation with the North Carolina Agricultural Extension Service, and to provide for other agricultural programs.
- (3) Air Pollution. To maintain and administer air pollution control programs.
- (4) Ambulance Service. To provide ambulance services, rescue squads, and emergency medical services.
- (5) Animal Protection and Control. To provide animal protection and control programs.
- (6) Beach Erosion and Natural Disasters. To provide for shoreline protection, beach erosion control, and flood and hurricane protection.
- (7) Cemeteries. To provide for cemeteries.
- (8) Civil Defense. To provide for civil defense programs.
- (9) Courts. To provide adequate facilities for and the county's share of the cost of operating the General Court of Justice in the county.
- (10) Debt Service. To pay the principal of and interest on all general obligation bonds and notes of the county.
- (11) Debts and Judgments. To pay and discharge any valid debt of the county or any judgment lodged against it.
- (12) Deficits. To supply an unforeseen deficiency in the revenue, when revenues actually collected or received fall below revenue estimates made in good faith and in accordance with the Local Government Budget and Fiscal Control Act.
- (13) Elections. To provide for all federal, State, district, and county elections conducted in the county.
- (14) Fire Protection. To provide fire protection services and fire prevention programs.
- (15) Forest Protection. To provide forest management and protection programs.
- (16) Health. To provide for the county's share of maintaining and

- administering services offered by or through the county or district health department.
- (17) Human Relations. To undertake human relations programs.
 - (18) Jails. To provide for the operation of a jail and other local confinement facilities.
 - (19) Joint Undertakings. To cooperate with any other county, city, or unit of local government in providing any of the functions, services, or activities listed in this subsection.
 - (20) Law Enforcement. To provide for the operation of the office of the sheriff of the county and for any other county law enforcement agency not under the sheriff's jurisdiction.
 - (21) Mapping. To provide for mapping the lands of the county.
 - (22) Medical Examiner. To provide for the county medical examiner or coroner.
 - (23) Mental Health. To provide for the county's share of the cost of maintaining and administering services offered by or through the county or area mental health department.
 - (24) National Guard and State Defense Militia. To provide armories for the use of the North Carolina National Guard, and to support the various organizations of the national guard and the State defense militia.
 - (25) Planning. To provide for a program of planning and regulation of development.
 - (26) Ports and Harbors. To participate in programs with the North Carolina Ports Authority and to provide for harbor masters.
 - (27) Register of Deeds. To provide for the operation of the office of the register of deeds of the county.
 - (28) Schools and Colleges. To provide for the county's share of the cost of public education.
 - (29) Soil and watershed improvement. To undertake soil conservation and watershed improvement projects.
 - (30) Sewers. To provide sewage collection and treatment services.
 - (31) Social Services. To provide for the public welfare through the maintenance and administration of public assistance and other social service programs offered by or through the county department of social services and by establishing and maintaining a county home.
 - (32) Solid Waste. To provide solid waste collection and disposal services.
 - (33) Surveyor. To provide for a county surveyor.
 - (34) Veterans' Service Officer. To provide for the county's share of the cost of services offered by or through the county veterans' service officer.
 - (35) Water. To provide water supply and distribution services.
 - (36) Water Resources. To participate in federal water resources development projects.

With respect to each category listed in this subsection, the county may provide the necessary personnel, land, buildings, equipment, supplies, and financial support for the program, service, or function.

This subsection does not authorize a county to undertake any program, service, or function not otherwise authorized by law. It is intended only to authorize the levy of property taxes without a vote of the people to finance

programs, services, or functions authorized by other portions of the General Statutes and comprehended within one of the categories set out herein.

(b) The board of commissioners may call a referendum on the levy of property taxes for any purpose not listed in subsection (a) of this section for which the county is authorized by general law or local act to appropriate money. The referendum may be held at the same time as any other referendum or election held in the county, but may not otherwise be held within the period of time beginning 30 days before and ending 30 days after the day of any other referendum or election conducted by the county board of elections. The county board of elections shall conduct the election.

The proposition submitted to the voters shall be substantially in one of the following forms:

- (1) Shall _____ County be authorized to levy annually a property tax at a rate not in excess of _____ cents on the one hundred dollars value of property subject to taxation for the purpose of _____?
- (2) Shall _____ County be authorized to levy annually a property tax at a rate not in excess of that which will produce \$_____ for the purpose of _____?
- (3) Shall _____ County be authorized to levy annually a property tax without restriction as to rate or amount for the purpose of _____?

If a majority of those voting on the proposition vote in the affirmative, the board of commissioners may proceed to levy annually a property tax within the limitations (if any) described in the proposition. Unless otherwise provided in the proposition submitted to the voters, a vote on a property tax levy not to exceed a specified rate per one hundred dollars value of property subject to taxation is a vote on an effective rate per one hundred dollars of appraised value of property before the application of any assessment ratio.

The referendum shall be held pursuant to the laws governing general elections under G.S. Chapter 163.

(c) This section does not invalidate any referendum held before July 1, 1973, on the levy of property taxes, and counties may continue to levy taxes pursuant to any such referendum.

“§ 153-150. *Reserve for octennial reappraisal.*—Before the beginning of the fiscal year immediately following the effective date of an octennial reappraisal of real property conducted as required by G.S. 105-286, the county budget officer shall present to the board of commissioners an eight-year budget for financing the cost of the next octennial reappraisal. The budget shall estimate the cost of the reappraisal and shall propose a plan for raising the necessary funds in eight annual installments during the next eight fiscal years, with all installments as nearly uniform as practicable. The board shall consider this budget, making any amendments to the budget it deems advisable, and shall adopt a resolution establishing a special reserve fund for the next octennial reappraisal. In the budget ordinance of the first fiscal year of the plan, the board of commissioners shall appropriate to the special reappraisal reserve fund the amount set out in the plan for the first year's installment. When the county budget for each succeeding fiscal year is in preparation, the board shall review the eight-year reappraisal budget with the budget officer and shall amend it, if necessary, so that it will reflect the probable cost at that time of the reappraisal

and will produce the necessary funds at the end of the eight-year period. In the budget ordinance for each succeeding fiscal year, the board shall appropriate to the special reappraisal reserve fund the amount set out in the plan as due in that year.

Moneys appropriated to the special reappraisal reserve fund shall not be available or expended for any purpose other than the reappraisal of real property required by G.S. 105-286, except that the funds may be deposited at interest or invested as permitted by G.S. 159-30. If there is a fund balance in the reserve fund following payment for the required reappraisal, it shall be retained in the fund for use in financing the next required reappraisal.

Within ten days after the adoption of each annual budget ordinance, the county finance officer shall report to the State Board of Assessment, on forms to be supplied by the State Board, the terms of the county's eight-year reappraisal budget, the current condition of the special reappraisal reserve fund, and the amount appropriated to the reserve fund in the current fiscal year.

"§ 153-151. *Sales tax*.—A county may levy a local sales and use tax under the rules and according to the procedures prescribed by the Local Government Sales and Use Tax Act (G.S. Chapter 105, Subchapter VIII).

"§ 153-152. *Privilege license taxes*.—A county may levy privilege license taxes on trades, occupations, professions, businesses, and franchises to the extent authorized by Schedule B of the Revenue Act (G.S. Chapter 105, Subchapter I, Article 2) and any other acts of the General Assembly.

"§ 153-153. *Animal tax*.—A county may levy an annual license tax on the privilege of keeping dogs and other pets within the county.

"§ 153-154. *Cable television franchise tax*.—A county may levy an annual franchise tax on cable television companies franchised under G.S. 153-137.

"Article 8

"County Property

"Part 1. Acquisition of Property

"§ 153-158. *Power to acquire property*.—A county may acquire, by gift, grant, devise, bequest, exchange, purchase, lease, or any other lawful method, the fee or any lesser interest in real or personal property for use by the county or any department, board, commission, or agency of the county.

"§ 153-159. *Power of eminent domain conferred*.—In addition to any power conferred by any other general law or local act, each county possesses the power of eminent domain and may acquire by condemnation the fee or any lesser interest in property, either inside or outside the county, for the following purposes:

- (1) Establishing, extending, enlarging, or improving any of the public enterprises listed in G.S. 153-274.
- (2) Establishing, enlarging, or improving parks, playgrounds, and other recreational facilities.
- (3) Constructing, enlarging, or improving hospital facilities.
- (4) Constructing, enlarging, or improving library facilities.
- (5) Constructing, enlarging, or improving courthouses, jails, office buildings, fire stations, and other buildings for use by the county or any board, commission, or agency thereof.

The power to acquire property by condemnation does not depend on any prior effort to acquire the same property by grant or purchase, nor is the power to

negotiate for the grant or purchase of property impaired by initiation of condemnation proceedings for acquisition of the same property.

In exercising the power of eminent domain, a county may in its discretion use the procedures of G.S. Chapter 40, Article 2; or the procedures of G.S. Chapter 160A, Article 11; or the procedures of any other general law or local act applicable to the county.

“§ 153-160. *Limitations on the power of eminent domain.*—(a) A county does not possess the power of eminent domain with respect to property owned by the State of North Carolina unless the State consents to the taking. The State's consent shall be given by the Council of State, or by the Director of Administration if the Council of State has delegated this power to him. In a condemnation proceeding against State property, consented to by the State, the only issue shall be the compensation to be paid for the property by the county.

(b) A county possesses the power of eminent domain for the purpose of acquiring any interest in property owned by another county, a city, or a municipal corporation organized for a special purpose only if the property proposed to be taken is not being used and is not needed for any governmental or proprietary purpose.

(c) A county possesses the power of eminent domain for the purpose of acquiring any interest in property already devoted to the public use and owned by a public service corporation, including public utilities as defined in G.S. Chapter 62 and electric and telephone membership corporations, only if the acquisition will not prevent or unreasonably impair the continued devotion to the public use of the properties and their operation by the public service corporation.

“§ 153-161. *Costs in unsuccessful condemnation actions and in inverse condemnation actions.*—If a county or an agency, board, or commission of a county institutes an action to acquire by condemnation any interest in real property and

(a) if the final judgment in the action is that the county or the agency, board, or commission is not authorized to condemn the property; or

(b) if the county or agency, board, or commission abandons the action, the court with jurisdiction over the action shall award each owner of property sought to be condemned a sum that, in the opinion of the court, will reimburse the owner for his reasonable costs, disbursements, and expenses (including reasonable attorney, appraisal, and engineering fees) incurred because of the action.

If an action is brought against a county or an agency, board, or commission of a county seeking compensation for the taking of any interest in property by the county or agency, board, or commission and judgment is for the plaintiff, the court shall award to the plaintiff as a part of the judgment a sum that, in the opinion of the court, will reimburse the plaintiff for his reasonable costs, disbursements, and expenses (including reasonable attorney, appraisal, and engineering fees) incurred because of the action.

“§ 153-162. *Acquisition of remnants.*—A county or an agency, board, or commission of a county may offer to acquire and may acquire the entire tract or parcel of an owner if the acquisition, by purchase or eminent domain, of only a part of the tract or parcel would leave the owner with an uneconomic remnant.

“§ 153-163. *Acquisition of property at a judicial sale, execution sale, or sale pursuant to a power of sale; disposition of such property.*—A county, city, or

other unit of local government may purchase real property at a judicial sale, an execution sale, or a sale made pursuant to a power of sale, to secure a debt due the county, city, or other unit. The purchasing government may sell any property so acquired by private sale for not less than the amount of its bid or may sell or exchange the property for any amount according to the procedures prescribed by G.S. Chapter 160A, Article 12.

“§ 153-164. *Joint buildings.*—Two or more counties, cities, other units of local government (including local boards of education), or any combination of such governments may jointly acquire or construct public buildings to house offices, departments, bureaus, agencies, or facilities of each government. The governments may acquire any land necessary for a joint building or may use land already held by one of the governments.

In exercising the powers granted by this section, the governments shall proceed according to the procedures and provisions of G.S. Chapter 160A, Article 20, Part 1.

“§ 153-165. *Leases.*—A county may lease as lessee, with or without option to purchase, any real or personal property for any authorized public purpose. A lease of personal property with an option to purchase is subject to G.S. Chapter 143, Article 8.

“Part 2. Use of County Property

“§ 153-169. *Care and use of county property; sites of county buildings.*—The board of commissioners shall supervise the maintenance, repair, and use of all county property. The board may issue orders and adopt by ordinance or resolution regulations concerning the use of county property, may designate and redesignate the location of any county department, office, or agency, and may designate and redesignate the site for any county building, including the courthouse. Before it may redesignate the site of the courthouse, the board of commissioners shall cause notice of its intention to do so to be published once at least four weeks before the meeting at which the redesignation is made.

“§ 153-170. *Regulation of parking on county property.*—A county may by ordinance regulate parking of motor vehicles on county-owned property. Such an ordinance may be enforced pursuant to G.S. 153-123. In addition, the ordinance may provide that vehicles parked in violation thereof may be removed from the property by the county or an agent of the county to a storage area or garage. If a vehicle is so removed, the owner, as a condition of regaining possession of the vehicle, shall be required to pay to the county all reasonable costs incidental to the removal and storage of the vehicle and any fine or penalty due for the violation.

“Part 3. Disposition of County Property

“§ 153-176. *Disposition of property.*—A county may dispose of any real or personal property belonging to it according to the procedures prescribed in G.S. Chapter 160A, Article 12. For purposes of this section references in G.S. Chapter 160A, Article 12, to the ‘city’, the ‘council’, or a specific city official are deemed to refer, respectively, to the county, the board of commissioners, and the county official who most nearly performs the same duties performed by the specified city official.

“§ 153-177. *Reconveyance of property donated to a local government.*—If real or personal property is conveyed without consideration to a county, city, or other unit of local government to be used for a specific purpose set out in the instrument of conveyance and the governing body of the county, city, or other

unit of local government determines that the property will not be used for that purpose, the county, city, or other unit of local government may reconvey the property without consideration to the grantor or his heirs, assigns, or nominees. Before it may make a reconveyance, the county, city, or other unit of local government shall publish once a week for two weeks notice of its intention to do so.

“Article 9

“Special Assessments

“§ 153-185. *Authority to make special assessments.*—A county may make special assessments against benefited property within the county for all or part of the costs of:

- (1) Constructing, reconstructing, extending, or otherwise building or improving water systems;
- (2) Constructing, reconstructing, extending, or otherwise building or improving sewage disposal systems;
- (3) Acquiring, constructing, reconstructing, extending, or otherwise building or improving beach erosion control or flood and hurricane protection works.

A county may not assess property within a city pursuant to paragraphs (1) or (2) of this section unless the governing board of the city has by resolution approved the project.

“§ 153-186. *Bases for making assessments.*—(a) For water or sewer projects, assessments may be made on the basis of:

- (1) The frontage abutting on the project, at an equal rate per foot of frontage; or
- (2) The street frontage of the lots served, or subject to being served, by the project, at an equal rate per foot of frontage; or
- (3) The area of land served, or subject to being served, by the project, at an equal rate per unit of area; or
- (4) The valuation of land served, or subject to being served, by the project, being the value of the land without improvements as shown on the tax records of the county, at an equal rate per dollar of valuation; or
- (5) The number of lots served, or subject to being served, by the project when the project involves extension of an existing system to a residential or commercial subdivision, at an equal rate per lot; or
- (6) A combination of two or more of these bases.

(b) For beach erosion control or flood and hurricane protection works, assessments may be made on the basis of:

- (1) The frontage abutting on the project, at an equal rate per foot of frontage; or
- (2) The frontage abutting on a beach or shoreline protected or benefited by the project, at an equal rate per foot of frontage; or
- (3) The area of land benefited by the project, at an equal rate per unit of area, or
- (4) The valuation of land benefited by the project, being the value of the land without improvements as shown on the tax records of the county, at an equal rate per dollar of valuation; or
- (5) A combination of two or more of these bases.

(c) Whenever the basis selected for assessment is either area or valuation, the board of commissioners shall provide for the laying out of one or more benefit

zones according (i), in water or sewer projects, to the distance of benefited property from the project being undertaken and (ii), in beach erosion control or flood and hurricane protection works, to the distance from the shoreline, the distance from the project, the elevation of the land, or other relevant factors. If more than one benefit zone is established, the board shall establish differing rates of assessment to apply uniformly throughout each benefit zone.

(d) For each project, the board of commissioners shall endeavor to establish an assessment method from among the bases set out in this section that will most accurately assess each lot or parcel of land according to the benefit conferred upon it by the project. The board's decision as to the method of assessment is final and not subject to further review or challenge.

"§ 153-187. *Corner lot exemptions.*—The board of commissioners may establish schedules of exemptions from assessments for water or sewer projects for corner lots when water or sewer lines are installed along both sides of the lots. A schedule of exemptions shall be based on categories of land use (residential, commercial, industrial, and agricultural) and shall be uniform for each category. A schedule may not allow exemption of more than seventy-five percent (75%) of the frontage of any side of a corner lot, or 150 feet, whichever is greater.

"§ 153-188. *Lands exempt from assessment.*—Except as provided in this article, no land within a county is exempt from special assessments except land belonging to the United States that is exempt under the provisions of federal statutes and, in the case of water or sewer projects, land within any floodway delineated by a local government pursuant to G.S. Chapter 143, Article 21, Part 6. In addition, in the case of water or sewer projects, land owned, leased, or controlled by a railroad company is exempt from assessments by a county to the same extent that it would be exempt from assessments by a city under G.S. 160A-222.

"§ 153-189. *State participation in improvement projects.*—If a county proposes to undertake a project that would benefit land owned by the State of North Carolina or a board, agency, commission, or institution of the State and to finance all or a part of the project by special assessments, the board of commissioners may request the Council of State to authorize the State to pay its ratable part of the cost of the project, and the Council of State may authorize these payments. The Council of State may authorize the Director of Administration to approve or disapprove requests from counties for payment pursuant to this section, but a county may appeal to the Council of State if the Director disapproves a request. The Council of State may direct that any payment authorized pursuant to this section be made from the Contingency and Emergency Fund of the State of North Carolina or from any other available funds. Except as State payments are authorized pursuant to this section, State-owned property is exempt from assessment under this article.

"§ 153-190. *Preliminary resolution; contents.*—Whenever the board of commissioners decides to finance all or part of a proposed project by special assessments, it shall first adopt a preliminary assessment resolution containing the following:

- (1) A statement of intent to undertake the project;
- (2) A general description of the nature and location of the project;

(3) A statement as to the proposed basis for making assessments, which shall include a general description of the boundaries of the area benefited if the basis of assessment is either area or valuation;

(4) A statement as to the percentage of the cost of the work that is to be specially assessed;

(5) A statement as to which, if any, assessments shall be held in abeyance and for how long;

(6) A statement as to the proposed terms of payment of the assessment; and

(7) An order setting a time and place for a public hearing on all matters covered by the preliminary assessment resolution. The hearing shall be not earlier than three weeks and not later than ten weeks from the day on which the preliminary resolution is adopted.

“§ 153-191. *Notice of preliminary resolution.*—At least ten days before the date set for the public hearing, the board of commissioners shall publish a notice that a preliminary assessment resolution has been adopted and that a public hearing on it will be held at a specified time and place. The notice shall describe generally the nature and location of the improvement. In addition, at least ten days before the date set for the hearing, the board shall cause a copy of the preliminary assessment resolution to be mailed by first-class mail to each owner, as shown on the county tax records, of property subject to assessment if the project is undertaken. The person designated to mail these resolutions shall file with the board a certificate stating that they were mailed by first-class mail and on what date. In the absence of fraud, the certificate is conclusive as to compliance with the mailing requirements of this section.

“§ 153-192. *Hearing on preliminary resolution; assessment resolution.*—At the public hearing the board of commissioners shall hear all interested persons who appear with respect to any matter covered by the preliminary assessment resolution. At or after the hearing, the board may adopt a final assessment resolution directing that the project or portions thereof be undertaken. The final assessment resolution shall describe the project in general terms (which may be by reference to projects described in the preliminary resolution) and shall set forth the following:

(1) The basis on which the special assessments will be made, together with a general description of the boundaries of the areas benefited if the basis of assessment is either area or valuation;

(2) The percentage of the cost of the work that is to be specially assessed; and

(3) The terms of payment, including the conditions, if any, under which assessments are to be held in abeyance.

The percentage of cost to be assessed may not be different from the percentage proposed in the preliminary assessment resolution, nor may the project authorized be greater in scope than the project described in that resolution. If the board decides that a different percentage of the cost should be assessed than that proposed in the preliminary assessment resolution, or that the project should be greater in scope than that described in that resolution, it shall adopt and advertise a new preliminary assessment resolution as provided in this article.

“§ 153-193. *Determination of costs.*—When a project is complete, the board of commissioners shall determine the project's total cost. In determining total cost, the board may include construction costs, the cost of necessary legal

services, the amount of interest paid during construction, the cost of rights-of-way, and the cost of publishing and mailing notices and resolutions. The board's determination of the total cost of a project is conclusive.

"§ 153-194. *Preliminary assessment roll; publication.*—When the total cost of a project has been determined, the board of commissioners shall cause a preliminary assessment roll to be prepared. The roll shall contain a brief description of each lot, parcel, or tract of land assessed, the basis for the assessment, the amount assessed against each, the terms of payment, and the name of the owner of each lot, parcel, or tract as far as this can be ascertained from the county tax records. A map of the project on which is shown each lot, parcel, or tract assessed, the basis of its assessment, the amount assessed against it, and the name of its owner as far as this can be ascertained from the county tax records is a sufficient assessment roll.

After the preliminary assessment roll has been completed, the board shall cause the roll to be filed in the clerk's office, where it shall be available for public inspection, and shall set the time and place for a public hearing on the roll. At least ten days before the date set for the hearing, the board shall publish a notice that the preliminary assessment roll has been completed. The notice shall describe the project in general terms, note that the roll in the clerk's office is available for inspection, and state the time and place for the hearing on the roll. In addition, at least ten days before the date set for the hearing, the board shall cause a notice of the hearing to be mailed by first-class mail to each owner of property listed on the roll. The mailed notice shall state the time and place of the hearing, note that the roll in the clerk's office is available for inspection, and state the amount as shown on the roll of the assessment against the property of the owner. The person designated to mail these notices shall file with the board a certificate stating that they were mailed by first-class mail and on what date. In the absence of fraud, the certificate is conclusive as to compliance with the mailing requirements of this section.

"§ 153-195. *Hearing on preliminary assessment roll; revision; confirmation; lien.*—At the public hearing the board of commissioners shall hear all interested persons who appear with respect to the preliminary assessment roll. At or after the hearing, the board shall annul, modify, or confirm the assessments, in whole or in part, either by confirming the preliminary assessments against any lot, parcel, or tract described in the preliminary assessment roll or by canceling, increasing, or reducing the assessments as may be proper in compliance with the basis of assessment. If any property is found to be omitted from the preliminary assessment roll, the board may place it on the roll and make the proper assessment. When the board confirms assessments for a project, the clerk shall enter in the minutes of the board the date, hour, and minute of confirmation. From the time of confirmation, each assessment is a lien on the property assessed of the same nature and to the same extent as the lien for county or city property taxes, under the priorities set out in G.S. 153-200. After the assessment roll is confirmed, the board shall cause a copy of it to be delivered to the county tax collector for collection in the same manner (except as provided in this article) as property taxes.

"§ 153-196. *Publication of notice of confirmation of assessment roll.*—No earlier than 20 days from the date the assessment roll is confirmed, the county tax collector shall publish once a notice that the roll has been confirmed. The notice shall also state that assessments may be paid without interest at any time

before the expiration of 30 days from the date that the notice is published and that if they are not paid within this time, all installments thereof shall bear interest as determined by the board of commissioners.

“§ 153-197. *Appeal to the General Court of Justice.*—If the owner of, or any person having an interest in, a lot, parcel, or tract of land against which an assessment is made is dissatisfied with the amount of the assessment, he may, within ten days after the day the assessment roll is confirmed, file a notice of appeal to the appropriate division of the General Court of Justice. He shall then have 20 days after the day the roll is confirmed to serve on the board of commissioners or the clerk a statement of facts upon which the appeal is based. The appeal shall be tried like other actions at law.

“§ 153-198. *Reassessment.*—When in its judgment an irregularity, omission, error, or lack of jurisdiction has occurred in any proceeding related to a special assessment made by it, the board of commissioners may set aside the assessment and make a reassessment. In that case, the board may include in the total project cost all additional interest paid, or to be paid, as a result of the delay in confirming the assessment. A reassessment proceeding shall, as far as practicable, follow the comparable procedures of an original assessment proceeding. A reassessment has the same force as if it originally had been made properly.

“§ 153-199. *Payment of assessments in full or by installments.*—Within 30 days after the day that notice of confirmation of the assessment roll is published, each owner of assessed property shall pay his assessment in full, unless the board of commissioners has provided that assessments may be paid in annual installments. If payment by installments is permitted, any portion of an assessment not paid within the 30 day period shall be paid in annual installments. The board shall in the assessment resolution determine whether payment may be made by annual installments and set the number of installments, which may not be more than ten. With respect to payment by installment, the board may provide

- (1) That the first installment with interest is due on the date when property taxes are due, and one installment with interest is due on the same date in each successive year until the assessment is paid in full, or
- (2) That the first installment with interest is due 60 days after the date that the assessment roll is confirmed, and one installment with interest is due on that same day in each successive year until the assessment is paid in full.

“§ 153-200. *Enforcement of assessments; interest; foreclosure; limitations.*—(a) Any portion of an assessment that is not paid within 30 days after the day that notice of confirmation of the assessment roll is published shall, until paid, bear interest at a rate to be fixed in the assessment resolution. The maximum rate at which interest may be set is eight percent (8%) per annum.

(b) If an installment of an assessment is not paid on or before the due date, all of the installments remaining unpaid immediately become due, unless the board of commissioners waives acceleration. The board may waive acceleration and permit the property owner to pay all installments in arrears together with interest due thereon and the cost to the county of attempting to obtain payment. If this is done, any remaining installments shall be reinstated so that they fall due as if there had been no default. The board may waive acceleration and

reinstate further installments at any time before foreclosure proceedings have been instituted.

(c) A county may foreclose assessment liens under any procedure provided by law for the foreclosure of property tax liens, except that (i) lien sales and lien sale certificates are not required and (ii) foreclosure may be begun at any time after 30 days after the due date. The county is not entitled to a deficiency judgment in an action to foreclose an assessment lien. The lien of special assessments is inferior to all prior and subsequent liens for State, local, and federal taxes, and superior to all other liens.

(d) No county may maintain an action or proceeding to foreclose any special assessment lien unless the action or proceeding is begun within 10 years from the date that the assessment or the earliest installment thereof included in the action or proceeding became due. Acceleration of installments under subsection (b) of this section does not have the effect of shortening the time within which foreclosure may be begun; in that event the statute of limitations continues to run as to each installment as if acceleration had not occurred.

“§ 153-201. *Authority to hold assessments in abeyance.*—The assessment resolution may provide that assessments made pursuant to this article shall be held in abeyance without interest for any benefited property assessed. Water or sewer assessments may be held in abeyance until improvements on the assessed property are connected to the water or sewer system for which the assessment was made, or until a date certain not more than 10 years from the date of confirmation of the assessment roll, whichever event occurs first. Beach erosion control or flood and hurricane protection assessments may be held in abeyance for not more than 10 years from the date of confirmation of the assessment roll. When the period of abeyance ends, the assessment is payable in accordance with the terms set out in the assessment resolution.

If assessments are to be held in abeyance, the assessment resolution shall classify the property assessed according to general land use, location with respect to the water or sewer system (for water or sewer assessments), or other relevant factors. The resolution shall also provide that the period of abeyance shall be the same for all assessed property in the same class.

Statutes of limitations are suspended during the time that any assessment is held in abeyance without interest.

“§ 153-202. *Assessments on property held by tenancy for life or years contribution.*—(a) Assessments upon real property in the possession or enjoyment of a tenant for life or a tenant for a term of years shall be paid pro rata by the tenant and the remaindermen after the life estate or by the tenant and the owner in fee after the expiration of the tenancy for years according to their respective interests in the land as calculated pursuant to G.S. 37-13.

(b) If a person having an interest in land held by tenancy for life or years pays more than his pro rata share of an assessment against the property, he may maintain an action in the nature of a suit for contribution against any delinquent party to recover from that party his pro rata share of the assessment, with interest thereon from the date of the payment; and in addition, he is subrogated to the right of the county to a lien on the property for the delinquent party's share of the assessment.

“§ 153-203. *Lien in favor of a cotenant or joint owner paying special assessments.*—Any one of several tenants in common or joint tenants (other than co-partners) may pay the whole or any part of a special assessment made against

property held in common or jointly. Any amount so paid that exceeds his share of the assessment and that was not paid through agreement with or on behalf of the other joint owners is a lien in his favor upon the shares of the other joint owners. This lien may be enforced in a proceeding for actual partition, a proceeding for partition and sale, or by any other appropriate judicial proceeding. This lien is not effective against an innocent purchaser for value until notice of the lien is filed in the office of the clerk of superior court in the county in which the land lies and indexed and docketed in the same manner as other liens required by law to be filed in that clerk's office.

“§ 153-204. *Apportionment of assessments.*—If a special assessment has been made against property that has been or is about to be subdivided, the board of commissioners may, with the consent of the owner of the property, (i) apportion the assessment among the lots or tracts within the subdivision, or (ii) release certain lots or tracts from the assessment if, in the board's opinion, the released lots or tracts are not benefited by the project, or (iii) both. Upon an apportionment each of the lots or tracts in the subdivision is released from the lien of the original assessment, and the portion of the original assessment assessed against each lot or tract has, as to that lot or tract, the same force as the original assessment. At the time the board makes an apportionment under this section, the clerk shall enter on the minutes of the board the date, hour, and minute of apportionment and a statement to the effect that the apportionment is made with the consent of the owners of the property affected, which entry is conclusive in the absence of fraud. The apportionment is effective at the time shown in the minute book. Apportionments may include past due installments with interest, as well as installments not then due; and any installment not then due shall fall due at the same date as it would have under the original assessment.

“Article 10

“Law Enforcement and Confinement Facilities

“Part 1. Law Enforcement

“§ 153-211. *Training and development programs for law enforcement.*—A county may plan and execute training and development programs for law enforcement agencies, and for that purpose may:

- (1) contract with other counties, cities, and the State and federal governments and their agencies;
- (2) accept, receive, and disburse funds, grants, and services;
- (3) pursuant to the procedures and provisions of G.S. Chapter 160A, Article 20, Part 1, create joint agencies to act for and on behalf of the participating counties and cities;
- (4) apply for, receive, administer, and expend federal grant funds;
- (5) appropriate funds not otherwise limited as to use by law.

“§ 153-212. *Cooperation on law enforcement matters.*—A county may cooperate with other local governments in law enforcement matters, as permitted by G.S. 160A-283 (joint auxiliary police), by 160A-288 (emergency aid), and by G.S. Chapter 160A, Article 20, Part 1.

“Part 2. Local Confinement Facilities

“§ 153-216. *Legislative policy.*—The policy of the General Assembly with respect to local confinement facilities is:

- (1) Local confinement facilities should provide secure custody of persons confined therein in order to protect the community and should be operated so as

to protect the health and welfare of prisoners and provide for their humane treatment.

(2) Minimum statewide standards should be provided to guide and assist local governments in planning, constructing, and maintaining confinement facilities and in developing programs that provide for humane treatment of prisoners and contribute to the rehabilitation of offenders.

(3) The State should provide services to local governments to help improve the quality of administration in local confinement facilities. These services should include inspection, consultation, technical assistance, and other appropriate services.

(4) Adequate training of the personnel of local confinement facilities is essential to improvement of the quality of administration of those facilities. The State should provide this training and the training should be required as a condition of employment in a local confinement facility.

“§ 153-217. *Definitions.*—Unless otherwise clearly required by the context, the words and phrases defined in this section have the meanings indicated when used in this part:

(1) ‘Board’ means the State Board of Social Services.

(2) ‘Commissioner’ means the State Commissioner of Social Services.

(3) ‘Department’ means the State Department of Social Services.

(4) ‘Governing body’ means the governing body of a county or city or the policy-making body for a district or regional confinement facility.

(5) ‘Local confinement facility’ includes a county or city jail, a local lock-up, a regional or district jail, a juvenile detention home, a detention facility for adults operated by a local government, and any other facility operated by a local government for confinement of persons awaiting trial or serving sentences.

(6) ‘Prisoner’ includes any person, adult or juvenile, confined or detained in a confinement facility.

(7) ‘Unit’, ‘unit of local government’, or ‘local government’ mean a county or city.

“§ 153-218. *County confinement facilities.*—A county may establish, acquire, erect, repair, maintain, and operate local confinement facilities and may for these purposes appropriate funds not otherwise limited as to use by law.

“§ 153-219. *District confinement facilities.*—(a) Two or more units of local government may enter into and carry out an agreement to establish, finance, and operate a district confinement facility. The units may construct such a facility or may designate an existing facility as a district confinement facility. In addition, two or more units of local government may enter into and carry out agreements under which one unit may use the local confinement facility owned and operated by another. In exercising the powers granted by this section, the units shall proceed according to the procedures and provisions of G.S. Chapter 160A, Article 20, Part 1.

(b) If a district confinement facility is established, the units involved shall provide for a jail administrator for the facility. The administrator need not be the sheriff or any other official of a participating unit. The administrator and the other custodial personnel of a district confinement facility have the authority of law enforcement officers for the purposes of receiving, maintaining custody of, and transporting prisoners.

(c) If a district confinement facility is established, or if one unit contracts to use the local confinement facility of another, the law enforcement officers of the

contracting units and the custodial personnel of the facility may transport prisoners to and from the facility.

(d) The Department shall provide technical and other assistance to units wishing to exercise any of the powers granted by this section.

“§ 153-220. *Jail and detention services.*—The Board has policy responsibility for providing and coordinating State services to local government with respect to local confinement facilities. The Department shall:

(1) Consult with and provide technical assistance to units of local government with respect to local confinement facilities.

(2) Develop minimum standards for the construction and operation of local confinement facilities.

(3) Visit and inspect local confinement facilities; advise the sheriff, jailer, governing board, and other appropriate officials as to deficiencies and recommend improvements; and submit written reports on the inspections to appropriate local officials.

(4) Review and approve plans for the construction and major modification of local confinement facilities.

(5) Provide for training of personnel of local confinement facilities.

(6) Perform any other duties that may be necessary to carry out the State's responsibilities concerning local confinement facilities.

“§ 153-221. *Minimum standards.*—(a) The Commissioner shall develop and publish minimum standards for the operation of local confinement facilities and may from time to time develop and publish amendments to the standards. The standards shall be developed with a view to providing secure custody of prisoners and to protecting their health and welfare and providing for their humane treatment. The standards shall provide for:

(1) Secure and safe physical facilities;

(2) Jail design;

(3) Adequacy of space per prisoner;

(4) Heat, light, and ventilation;

(5) Supervision of prisoners;

(6) Personal hygiene and comfort of prisoners;

(7) Medical care for prisoners;

(8) Sanitation;

(9) Food allowances, food preparation, and food handling;

(10) Any other provisions that may be necessary for the safekeeping, privacy, care, protection, and welfare of prisoners.

(b) In developing the standards and any amendments thereto, the Commissioner shall consult with organizations representing local government and local law enforcement, including the North Carolina Association of County Commissioners, the North Carolina League of Municipalities, the North Carolina Sheriffs' Association, and the North Carolina Police Executives' Association. The Commissioner shall also consult with interested State departments and agencies, including the State Department of Social Rehabilitation and Control, the State Board of Health, the State Department of Mental Health, and the Department of Insurance.

(c) Before the standards or any amendments thereto may become effective, they must be approved by the Board and the Governor. Upon becoming effective, they have the force and effect of law.

“§ 153-222. *Inspections of local confinement facilities.*—Department personnel shall visit and inspect each local confinement facility at least semiannually. The purpose of the inspections is to investigate the conditions of confinement and treatment of prisoners and to determine whether the facility meets the minimum standards published pursuant to G.S. 153-221. The inspector shall make a written report of each inspection and submit it within 30 days after the day the inspection is completed to the governing body and other local officials responsible for the facility. The report shall specify each way in which the facility does not meet the minimum standards. The governing body shall consider the report at its first regular meeting after receipt of the report and shall promptly initiate any action necessary to bring the facility into conformity with the standards.

“§ 153-223. *Enforcement of minimum standards.*—If an inspection conducted pursuant to G.S. 153-222 discloses that a local confinement facility does not meet the minimum standards published pursuant to G.S. 153-221 and, in addition, if the Commissioner determines that conditions in the facility jeopardize the safe custody, safety, health, or welfare of persons confined in the facility, the Commissioner may order corrective action or close the facility, as provided in this section:

(1) The Commissioner shall give notice of his determination to the governing body and each other local official responsible for the facility. The Commissioner shall also send a copy of this notice, along with a copy of the inspector's report, to the senior regular resident superior court judge for the judicial district in which the facility is located. Upon receipt of the Commissioner's notice, the governing body shall call a public hearing to consider the report. The hearing shall be held within 20 days after the day the Commissioner's notice is received. The inspector shall appear at this hearing to advise and consult with the governing body concerning any corrective action necessary to bring the facility into conformity with the standards.

(2) The governing body shall, within 30 days after the day the Commissioner's notice is received, initiate appropriate corrective action or close the facility. The corrective action must be completed within a reasonable time.

(3) If the governing body does not within the 30-day period either initiate corrective action or close the facility, or does not complete the action within a reasonable time, the Commissioner may order that the facility be closed. The Commissioner shall by registered mail give notice of his order of closure to the governing body and each other local official responsible for the facility and to the senior regular resident superior court judge. The order shall provide for its effective date.

(4) The governing body may appeal an order of the Commissioner to the senior regular resident superior court judge. The governing body shall initiate the appeal by giving by registered mail to the judge and to the Commissioner notice of its intention to appeal. The notice must be given within 15 days after the day the Commissioner's order is received. If notice is not given within the 15-day period, the right to appeal is terminated.

(5) The senior regular resident superior court judge shall hear the appeal. He shall cause notice of the date, time, and place of the hearing to be given to each interested party, including the Commissioner, the governing body, and each other local official involved. The judge shall conduct the hearing without a jury. The Commissioner, the governing body, and each other local official may give

any evidence the judge finds appropriate. The issue before the court shall be whether the facility continues to jeopardize the safe custody, safety, health, or welfare of persons confined therein. The court may affirm, modify, or reverse the Commissioner's order.

“§ 153-224. *Supervision of local confinement facilities.*—(a) No person may be confined in a local confinement facility unless custodial personnel are present and available to provide continuous supervision in order that custody will be secure and that, in event of emergency, such as fire, illness, assaults by other prisoners, or otherwise, the prisoners can be protected. These personnel shall supervise prisoners closely enough to maintain safe custody and control and to be at all times informed of the prisoners' general health and emergency medical needs.

(b) In a medical emergency, the custodial personnel shall secure emergency medical care from a licensed physician according to the unit's plan for medical care. If a physician designated in the plan is not available, the personnel shall secure medical services from any licensed physician who is available. The unit operating the facility shall pay the cost of emergency medical services.

(c) If a person violates any provision of this section, he is guilty of a misdemeanor.

“§ 153-225. *Medical care of prisoners.*—(a) Each unit that operates a local confinement facility shall develop a plan for providing medical care for prisoners in the facility. The plan

- (1) shall be designed to protect the health and welfare of the prisoners and to avoid the spread of contagious disease;
- (2) shall provide for medical supervision of prisoners and emergency medical care for prisoners to the extent necessary for their health and welfare;
- (3) shall provide for compliance with the requirements of G.S. 130-97 and G.S. 130-121.

The unit shall develop the plan in consultation with appropriate local officials and organizations, including the sheriff, the county physician, the local or district health director, and the local medical society. The plan must be approved by the local or district health director, upon a determination that the plan is adequate to protect the health and welfare of the prisoners, and must be adopted by the governing body.

(b) If a prisoner in a local confinement facility dies, the medical examiner and the coroner shall be notified immediately. Within five days after the day of the death, the administrator of the facility shall make a written report to the local or district health director and to the Commissioner. The report shall be made on forms provided by the State Board of Health, and the Board of Health shall develop and distribute these forms.

(c) If a person violates any provision of this section (including the requirements regarding G.S. 130-97 and 130-121), he is guilty of a misdemeanor.

“§ 153-226. *Sanitation and food.*—(a) The State Board of Health shall adopt rules and regulations governing the sanitation of local confinement facilities, including the kitchens and other places where food is prepared for prisoners. The rules and regulations shall cover such matters as cleanliness of floors, walls, ceilings, storage spaces, utensils, and other facilities; adequacy of lighting, ventilation, water, lavatory facilities, bedding, food protection facilities,

treatment of eating and drinking utensils, and waste disposal; methods of food preparation, handling, storage, and serving; adequacy of diet; and any other item necessary to the health of the prisoners or the public.

(b) The State Board of Health shall prepare a score sheet to be used by sanitarians of local or district health departments in inspecting local confinement facilities. The sanitarians shall inspect local confinement facilities as often as may be required by the State Board of Health. If an inspector of the Department finds conditions that reflect hazards or deficiencies in the sanitation or food service of a local confinement facility, he shall immediately notify the local or district health department. The health department shall promptly cause a sanitarian to inspect the facility. After making his inspection, the sanitarian shall forward a copy of his report to the Department and to the unit operating the facility, on forms prepared by the State Board of Health. The report shall indicate whether the facility and its kitchen or other place for preparing food is approved or disapproved for public health purposes. If the facility is disapproved, the situation shall be rectified according to the procedures of G.S. 153-223.

“§ 153-227. *Training of personnel.*—(a) The Commissioner shall provide for a training program for supervisory and administrative personnel of local confinement facilities. These personnel include the sheriff and other elected or appointed officials. The Commissioner shall develop the training program in consultation with the State Department of Social Rehabilitation and Control, the North Carolina Sheriffs' Association, the North Carolina Association of County Commissioners, the North Carolina League of Municipalities, and the North Carolina Police Executives' Association. To the extent feasible, the training should be provided through the existing educational resources of the State.

(b) Except on a temporary or probationary basis, no person (including elected officials) may serve as jailer or administrator of a local confinement facility unless he has successfully completed an approved program of training established pursuant to subsection (a) of this section. No person may serve on a temporary or probationary basis for longer than one year.

“§ 153-228. *Separation of sexes.*—Male and female prisoners shall be confined in separate facilities or in separate quarters in local confinement facilities.

“Article 11

“Fire Protection

“§ 153-233. *Fire fighting and prevention services.*—A county may establish, organize, equip, support, and maintain a fire department; may prescribe the duties of the fire department; may provide assistance to incorporated volunteer fire departments; may contract for fire fighting or prevention services with one or more counties, cities, or other units of local government or with an agency of the State government; and may for these purposes appropriate funds not otherwise limited as to use by law.

“§ 153-234. *Fire marshal.*—A county may appoint a fire marshal and employ persons as his assistants. A county may also impose any duty that might be imposed on a fire marshal on any other officer or employee of the county. The board of commissioners shall set the duties of the fire marshal, which may include but are not limited to:

(1) Advising the board on improvements in the fire fighting or fire prevention activities under the county's supervision or control.

(2) Coordinating fire fighting and training activities under the county's supervision or control.

(3) Coordinating fire prevention activities under the county's supervision or control.

(4) Assisting incorporated volunteer fire departments in developing and improving their fire fighting or fire prevention capabilities.

(5) Making fire prevention inspections, including the periodic inspections and reports of school buildings required by G.S. Chapter 115 and the inspections of day-care facilities required by G.S. Chapter 110. A fire marshal shall not make electrical inspections unless he is qualified to do so under G.S. 153-351.

"§ 153-235. *Fire prevention codes.*—A county may by ordinance adopt a fire prevention code, to be effective in all areas of the county not governed by a city fire prevention code. Any published technical code or any standard or regulation promulgated by a public agency may be adopted in the ordinance by reference, and a technical code or standard or regulation so adopted has the force of law in each area of the county in which the ordinance is effective. An official copy of a technical code or standard or regulation adopted by reference shall be available for public inspection in the clerk's office. Before a fire prevention code may be adopted, it must be submitted to and approved by the State Building Code Council.

A county that adopts a fire prevention code shall appoint one or more fire prevention inspectors or designate one or more other county officers or employees to perform the duties of fire prevention inspector. The board of commissioners shall, subject to the approval of the State Building Code Council, set the duties of any person appointed or designated as a fire prevention inspector. A fire prevention inspector shall not make electrical inspections unless he is qualified to do so under G.S. 153-351.

"Article 12

"Roads and Bridges

"§ 153-239. *Public road defined.*—In this article 'public road' or 'road' mean any road, street, highway, thoroughfare, or other way of passage that has been irrevocably dedicated to the public or in which the public has acquired rights by prescription, without regard to whether it is open for travel.

"§ 153-240. *Naming roads and assigning street numbers in unincorporated areas.*—A county may by ordinance name or rename any public road within the county and not within a city, and may assign or reassign street numbers for use on such a road. In naming or renaming a public road, a county may not

- (1) change the name, if any, given to the road by the State Highway Commission, unless the Commission agrees;
- (2) change the number assigned to the road by the State Highway Commission, but may give the road a name in addition to its number; or
- (3) give the road a name that is deceptively similar to the name of any other public road in the vicinity.

A county shall not name or rename a road or assign or reassign street numbers on a road until it has held a public hearing on the matter. At least ten days before the day of the hearing, the board of commissioners shall cause notice of the time, place, and subject matter of the hearing to be prominently posted in at least three places along the road involved. After naming or renaming a public road, or assigning or reassigning street numbers on a public road, a county shall cause notice of its action to be given to the local postmaster with jurisdiction

over the road, to the State Highway Commission, and to any city within five miles of the road.

This section does not repeal or modify Chapter 945 of the Session Laws of 1953, which pertains to naming streets in Kannapolis.

“§ 153-241. *Closing public roads or easements.*—A county may permanently close any public road or any easement within the county and not within a city, except public roads or easements for public roads under the control and supervision of the State Highway Commission. The board of commissioners shall first adopt a resolution declaring its intent to close the public road or easement and calling a public hearing on the question. The board shall cause the resolution to be published once a week for four successive weeks before the hearing, a copy of the resolution to be sent by registered or certified mail to each owner as shown on the county tax records of property adjoining the public road or easement who did not join in the request to have the road or easement closed, and a notice of the closing and public hearing to be prominently posted in at least two places along the road or easement. At the hearing the board shall hear all interested persons who appear with respect to whether the closing would be detrimental to the public interest or to any individual property rights. If, after the hearing, the board of commissioners is satisfied that closing the public road or easement is not contrary to the public interest and (in the case of a road) that no individual owning property in the vicinity of the road or in the subdivision in which it is located would thereby be deprived of reasonable means of ingress and egress to his property, the board may adopt an order closing the road or easement. A certified copy of the order (or judgment of the court) shall be filed in the office of the register of deeds of the county.

Any person aggrieved by the closing of a public road or an easement may appeal the board of commissioners' order to the appropriate division of the General Court of Justice within 30 days after the day the order is adopted. The court shall hear the matter de novo and has jurisdiction to try the issues arising and to order the road or easement closed upon proper findings of fact by the trier of fact.

No cause of action founded upon the invalidity of a proceeding taken in closing a public road or an easement may be asserted except in an action or proceeding begun within thirty days after the day the order is adopted.

Upon the closing of a public road or an easement pursuant to this section, all right, title, and interest in the right-of-way is vested in those persons owning lots or parcels of land adjacent to the road or easement, and the title of each adjoining landowner, for the width of his abutting land, extends to the center line of the public road or easement. However, the right, title or interest vested in an adjoining landowner by this paragraph remains subject to any public utility use or facility located on, over, or under the road or easement immediately before its closing, until the landowner or any successor thereto pays to the utility involved the reasonable cost of removing and relocating the facility.

“§ 153-242. *Regulation or prohibition of fishing from bridges.*—A county may by ordinance regulate or prohibit fishing from any bridge within the county and not within a city. In addition, the governing board of a city may by resolution permit a county to regulate or prohibit fishing from any bridge within the city. The city may by resolution withdraw its permission to the county ordinance. If it does so, the city shall give written notice to the county of its withdrawal of permission; 30 days after the day the county receives this notice the county

ordinance ceases to be applicable within the city. An ordinance adopted pursuant to this section shall provide for signs to be posted on each bridge affected, summarizing the regulation or prohibition pertaining to that bridge.

No person may fish from the drawspan of a regularly attended bridge, and no county may permit any person to do so.

The authority granted by this section is subject to the authority of the State Highway Commission to prohibit fishing from any bridge on the State Highway System.

“§ 153-243. *Authorizing bridges over navigable waters.*—A county may grant to persons who between them own or occupy real property on both sides of a body of navigable water lying wholly within the county the right to construct and maintain across the body of water a bridge connecting the property. The board of commissioners shall first adopt a resolution declaring its intent to grant the right and calling a public hearing on the question. The board shall cause the resolution to be published once a week for four successive weeks before the hearing. At the hearing the board shall hear all interested persons who appear with respect to whether the grant would be in the public interest. If, after the hearing, the board finds that the grant is not contrary to the public interest, it may adopt an order granting the right to construct the bridge. The board may place reasonable terms and conditions, including time limitations, on the grant.

A person aggrieved by a grant may appeal the board of commissioners' order to the appropriate division of the General Court of Justice within thirty days after the day it is adopted. The court shall hear the matter de novo and has jurisdiction to try the issues arising and to grant the right to construct the bridge.

Before construction may be commenced on any bridge authorized pursuant to this section, the bridge's location and plans must be submitted to and approved by the Chief of Engineers of the United States Army and the Secretary of the Army.

“Article 13

“Health and Social Services

“Part 1. Health Services

“§ 153-247. *Provision for public health and mental health.*—A county may provide for and regulate the public health pursuant to G.S. Chapter 130 and any other law authorizing local public health activities and may provide mental health programs pursuant to G.S. Chapter 122.

“§ 153-248. *Health-related appropriations.*—(a) A county may appropriate revenues not otherwise limited as to use by law:

- (1) To a licensed facility for the mentally retarded, whether publicly or privately owned, to assist in maintaining and developing facilities and treatment, if the board of commissioners determines that the care offered by the facility is available to residents of the county. The facility need not be located within the county.
- (2) To a sheltered workshop or other private, nonprofit, charitable organization offering work and training activities to the physically or mentally handicapped, and may otherwise assist such an organization.
- (3) To an orthopedic hospital, whether publicly or privately owned, to assist in maintaining and developing facilities and treatment, if the board of commissioners determines that the care offered by the hospital

is available to residents of the county. The hospital need not be located within the county.

(b) The ordinance making the appropriation shall state specifically what the appropriation is to be used for, and the board of commissioners shall require that the recipient account for the appropriation at the close of the fiscal year.

“§ 153-249. *Hospital services.*—A county may provide and support hospital services pursuant to G.S. Chapter 131.

“§ 153-250. *Ambulance services.*—(a) A county may by ordinance franchise ambulance services provided in the county to the public at large, whether the service is based inside or outside the county. The ordinance may:

- (1) Grant franchises to ambulance operators on terms set by the board of commissioners;
- (2) Make it unlawful to provide ambulance services or to operate an ambulance in the county without such a franchise;
- (3) Limit the number of ambulances that may be operated within the county;
- (4) Limit the number of ambulances that may be operated by each franchised operator;
- (5) Determine the areas of the county that may be served by each franchised operator;
- (6) Establish and from time to time revise a schedule of rates, fees, and charges that may be charged by franchised operators;
- (7) Set minimum limits of liability insurance for each franchised operator;
- (8) Establish other necessary regulations consistent with and supplementary to any statute or any State Board of Health regulation relating to ambulance services.

Before it may adopt an ordinance pursuant to this subsection, the board of commissioners must first hold a public hearing on the need for ambulance services. The board shall cause notice of the hearing to be published once a week for two successive weeks before the hearing. After the hearing the board may adopt an ordinance if it finds that to do so is necessary to assure the provision of adequate and continuing ambulance service and to preserve, protect, and promote the public health, safety, and welfare.

If a person, firm, or corporation is providing ambulance services in a county or any portion thereof on the effective date of an ordinance adopted pursuant to this subsection, the person, firm, or corporation is entitled to a franchise to continue to serve that part of the county in which the service is being provided. The board of commissioners shall determine whether the person, firm, or corporation so entitled to a franchise is in compliance with G.S. Chapter 130, Article 26; and if that is the case, the board shall grant the franchise.

(b) In lieu of or in addition to adopting an ordinance pursuant to subsection (a) of this section, a county may operate or contract for ambulance services in all or a portion of the county. A county may appropriate for ambulance services any revenues not otherwise limited as to use by law, and may establish and from time to time revise schedules of rates, fees, charges, and penalties for the ambulance services. A county may operate its ambulance services as a line department or may create an ambulance commission and vest in it authority to operate the ambulance services.

(c) A city may adopt an ordinance pursuant to and under the procedures of subsection (a) of this section and may operate or contract for ambulance services

pursuant to subsection (b) of this section if (i) the county in which the city is located has adopted a resolution authorizing the city to do so or (ii) the county has not, within 180 days after being requested by the city to do so, provided for ambulance services within the city pursuant to this section. Any action taken by a city pursuant to this subsection shall apply only within the corporate limits of the city.

If a city is exercising a power granted by this subsection, the county in which the city is located may thereafter take action to provide for ambulance service within the city, either under subsection (a) or subsection (b) of this section, only after having given to the city 180 days notice of the county's intention to take action. At the end of the 180 days, the city's authority under this subsection is pre-empted by the county.

(d) A county or a city may contract with a franchised ambulance operator or with another county or city for ambulance service to be provided upon the call of a department or agency of the county or city. A county may contract with a franchised ambulance operator for transportation of indigents or persons certified by the county department of social services to be public assistance recipients.

(e) Each county or city operating ambulance services is subject to the provisions of G.S. Chapter 130, Article 26 ("Regulation of Ambulance Services").

"Part 2. Social Service Provisions

"§ 153-255. *Authority to provide social service programs.*—Each county shall provide social service programs pursuant to G.S. Chapter 108 and G.S. Chapter 111 and may otherwise undertake, sponsor, organize, engage in, and support other social service programs intended to further the health, welfare, education, safety, comfort, and convenience of its citizens.

"§ 153-256. *County home.*—A county may establish, erect, acquire, lease as lessor or lessee, equip, support, operate, and maintain a county home for aged and infirm persons and may appropriate funds for these purposes.

The superintendent of each county home shall make an annual report on its operation to the board of commissioners of the county operating the home and to the State Department of Social Services. The report shall contain any information that the board of commissioners and the State Department of Social Services, respectively, require, and the Department may provide forms for this report.

"§ 153-257. *Legal residence for social service purposes.*—(a) Legal residence in a county determines which county is responsible (i) for financial support of a needy person who meets the eligibility requirements for a public assistance or medical care program offered by the county or (ii) for other social services required by the person.

Legal residence in a county is determined as follows:

- (1) Except as modified below, a person has legal residence in the county in which he resides.
- (2) If a person is in a hospital, mental institution, nursing home, boarding home, confinement facility, or similar institution or facility, he does not, solely because of that fact, have legal residence in the county in which the institution or facility is located.
- (3) A minor has the legal residence of the parent or other relative with whom he resides. If the minor does not reside with a parent or relative

and is not in a foster home, hospital, mental institution, nursing home, boarding home, educational institution, confinement facility, or similar institution or facility, he has the legal residence of the person with whom he resides. Any other minor has the legal residence of his mother, or if her residence is not known then the legal residence of his father; if his mother's or father's residence is not known, the minor is a legal resident of the county in which he is found.

(b) A legal residence continues until a new one is acquired, either within or outside this State. When a new legal residence is acquired, all former legal residences terminate.

(c) This section is intended to replace the law defining 'legal settlement.' Therefore any general law or local act that refers to 'legal settlement' is deemed to refer to this section and the rules contained herein.

"Article 14

"Libraries

"§ 153-261. *Declaration of State policy.*—The General Assembly recognizes that the availability of adequate, modern library services and facilities is in the general interest of the people of North Carolina and a proper concern of the State and of local governments. Therefore it is the policy of the State of North Carolina to promote the establishment and development of public library services throughout the State.

"§ 153-262. *Library materials defined.*—For purposes of this article, the phrase 'library materials' includes, without limitation, books, plates, pictures, engravings, maps, magazines, pamphlets, newspapers, manuscripts, films, transparencies, microforms, recordings, or other specimens, works of literature, or objects of art, historical significance, or curiosity.

"§ 153-263. *Public library systems authorized.*—A county or city may:

- (1) Establish, operate, and support public library systems;
- (2) Set apart lands and buildings for a public library system;
- (3) Acquire real property for a public library system by gift, grant, purchase, lease, exercise of the power of eminent domain, or any other lawful method. If a library board of trustees is appointed, a county or city shall, before acquiring real property by purchase, lease, or exercise of the power of eminent domain, seek the recommendations of the board of trustees regarding the proposed acquisition;
- (4) Provide, acquire, construct, equip, operate, and maintain buildings and other structures for a public library system;
- (5) Acquire library materials by purchase, exchange, bequest, gift, or any other lawful method;
- (6) Appropriate funds to carry out the provisions of this article;
- (7) Accept any gift, grant, lease, loan, exchange, bequest, or devise of real or personal property for a public library system. Devises, bequests, grants, and gifts may be accepted and held subject to any term or condition that may be imposed by the grantor or trustor, except that no county or city may accept or administer any term or condition that requires it to discriminate among its citizens on the basis of race, sex, or religion.

"§ 153-264. *Free library services.*—If a county or city, pursuant to this article, operates or makes contributions to the support of a library, any resident of the county or city, as the case may be, is entitled to the free use of the library.

“§ 153-265. *Library board of trustees.*—The governing body of a county or city may appoint a library board of trustees. The governing body shall determine the number of members of the board of trustees (which may not be more than twelve), the length of their terms, the manner of filling vacancies, and the amount, if any, of their compensation and allowances. The governing body may remove a trustee at any time for incapacity, unfitness, misconduct, or neglect of duty.

“§ 153-266. *Powers and duties of trustees.*—If a board of trustees is appointed, it shall elect a chairman and may elect other officers. The governing body may delegate to the board of trustees any of the following powers:

- (1) To formulate and adopt programs, policies, and regulations for the government of the library;
- (2) To make recommendations to the governing body concerning the construction and improvement of buildings and other structures for the library system;
- (3) To supervise and care for the facilities of the library system;
- (4) To appoint a chief librarian or director of library services and, with his advice, to appoint other employees of the library system. If some other body or official is to appoint the chief librarian or director of library services, to advise that body or official concerning that appointment;
- (5) To establish a schedule of fines and charges for late return of, failure to return, damage to, and loss of library materials, and to take other measures to protect and regulate the use of such materials;
- (6) To participate in preparing the annual budget of the library system;
- (7) To extend the privileges and use of the library system to nonresidents of the county or city establishing or supporting the system, on any terms or conditions the board may prescribe.
- (8) To otherwise advise the board of commissioners on library matters.

The board of trustees shall make an annual report on the operations of the library to the governing body of the county or city and shall make an annual report to the North Carolina State Library as required by G.S. 125-5. If no board of trustees is established, the governing body shall make the annual report to the State Library.

“§ 153-267. *Qualifications of chief librarian; library employees.*—(a) To be eligible for appointment and service as the chief administrative officer of a library system (whether designated chief librarian, director of library services, or some other title), a person must have a professional librarian certificate issued by the North Carolina Library Certification Board pursuant to the provisions of G.S. Chapter 125.

(b) The employees of a county or city library system are, for all purposes, employees of the county or city, as the case may be.

“§ 153-268. *Financing library systems.*—A county or city may appropriate for library purposes any funds not otherwise limited as to use by law.

“§ 153-269. *Title to library property.*—The title to all property acquired by a county or city for library purposes shall be in the name of the county or city. If property is given, granted, devised, bequeathed, or otherwise conveyed to the board of trustees of a county or city library system, it shall be deemed to have been conveyed to the county or city and shall be held in the name of the county or city.

“§ 153-270. *Joint libraries; contracts for library services.*—Two or more counties or cities or counties and cities may establish a joint library system or contract for library services, according to the procedures and provisions of G.S. Chapter 160A, Article 20, Part 1.

“§ 153-271. *Library systems operated under local acts brought under this article.*—If a county or city operates a library system pursuant to a local act, the governing body of the county or city may by ordinance provide that the library system is to be operated pursuant to this article.

“Article 15

“Public Enterprises

“Part 1. General Provisions

“§ 153-274. *Public enterprise defined.*—As used in this article, ‘public enterprise’ includes:

- (1) Water supply and distribution systems,
- (2) Sewage collection and disposal systems,
- (3) Solid waste collection and disposal systems and facilities,
- (4) Airports,
- (5) Off-street parking facilities.

“§ 153-275. *Authority to operate public enterprises.*—A county may acquire, lease as lessor or lessee, construct, establish, enlarge, improve, extend, maintain, own, operate, and contract for the operation of public enterprises in order to furnish services to the county and its citizens. A county may acquire, construct, establish, enlarge, improve, maintain, own, and operate outside its borders any public enterprise.

A county may by ordinance or resolution adopt adequate and reasonable rules and regulations to protect and regulate a public enterprise belonging to or operated by it.

“§ 153-276. *Financing public enterprises.*—Subject to the restrictions, limitations, procedures, and regulations otherwise provided by law, a county may finance the cost of a public enterprise by levying taxes, borrowing money, and appropriating any other revenues, and by accepting and administering gifts and grants from any source.

“§ 153-277. *Authority to fix and enforce rates.*—(a) A county may establish and revise from time to time schedules of rents, rates, fees, charges, and penalties for the use of or the services furnished by a public enterprise. Schedules of rents, rates, fees, charges, and penalties may vary for the same class of service in different areas of the county and may vary according to classes of service, and different schedules may be adopted for services provided outside of the county.

(b) A county may collect delinquent accounts by any remedy provided by law for collecting and enforcing private debts. A county may also discontinue service to a customer whose account remains delinquent for more than 10 days. If a delinquent customer is not the owner of the premises to which the services are delivered, the payment of the delinquent account may not be required before providing services at the request of a new and different tenant or occupant of the premises. If water or sewer services are discontinued for delinquency, it is unlawful for a person other than a duly authorized agent or employee of the county to reconnect the premises to the water or sewer system.

(c) Rents, rates, fees, charges, and penalties for enterprisory services are in no case a lien upon the property or premises served and, except as provided in

subsection (d) of this section, are legal obligations of the person contracting for them.

(d) Rents, rates, fees, charges, and penalties for enterprisory services are legal obligations of the owner of the property or premises served when:

- (1) The property or premises is leased or rented to more than one tenant and services rendered to more than one tenant are measured by the same meter; or
- (2) Charges made for use of a sewerage system are billed separately from charges made for the use of a water distribution system.

“§ 153-278. *Joint provision of enterprisory services.*—Two or more counties, cities, or other units of local government may cooperate in the exercise of any power granted by this article according to the procedures and provisions of G.S. Chapter 160A, Article 20, Part 1.

“Part 2. Special Provisions for Water and Sewer Services

“§ 153-283. *Nonliability for failure to furnish water or sewer services.*—In no case may a county be held liable for damages for failure to furnish water or sewer services.

“§ 153-284. *Power to require connections.*—A county may require the owner of improved property located so as to be served by a water line or sewer collection line owned or operated by the county to connect his premises with the water or sewer system and may fix charges for these connections.

“§ 153-285. *Prerequisites to acquisition of water, water rights, etc.*—The word ‘authority’ as used in G.S. 162A-7(b) through (f) includes counties and cities acting jointly or through joint agencies to provide water services or sewer services or both. No county or city acting jointly and no joint agency may divert water from one stream or river to another nor institute any proceeding in the nature of eminent domain to acquire water, water rights, or lands having water rights attached thereto until the diversion or acquisition is authorized by a certificate from the Board of Water and Air Resources pursuant to G.S. 162A-7. Any proceeding to secure a certificate from the Board shall be governed by the provisions of G.S. 162A-7(b) through 162A-7(f).

“§ 153-286. *Law with respect to riparian rights not changed.*—Nothing in this article changes or modifies existing common or statute law with respect to the relative rights of riparian owners or others concerning the use of or disposal of water in the streams of North Carolina.

“§ 153-287. *Diversion of water from certain river basins prohibited.*—Diversions of water from any major river basin the main stream of which downstream from the point of the diversion is not located entirely in North Carolina is prohibited except when the diversion is now permitted by law.

“§ 153-288. *Venue for actions by riparian owners.*—Any riparian owner alleging injury as a result of an act taken pursuant to this article by a county or city acting jointly or by a joint agency may maintain an action for relief against the act (i) in the county where the land of the riparian owner lies, (ii) in the county taking the action, or (iii) in any county in which the city or joint agency is located or operates.

“Part 3. Special Provisions for Solid Waste Collection
and Disposal

“§ 153-291. *Cooperation between the State Highway Commission and any county in establishing or operating solid waste disposal facilities.*—A county and the State Highway Commission may enter into an agreement under which the

Commission will make available to the county the use of equipment and prison and other labor in order to establish or operate solid waste disposal facilities within the county. The county shall reimburse the Commission for the cost of providing the equipment and labor. The agreement shall specify the work to be done thereunder and shall set forth the basis for reimbursement.

“Article 18

“Planning and Regulation of Development

“Part 1. General Provisions

“§ 153-320. *Territorial jurisdiction.*—Each of the powers granted to counties by this article, by G.S. Chapter 157A, and by G.S. Chapter 160A, Article 19 may be exercised throughout the county except as otherwise provided in G.S. 160A-360.

“§ 153-321. *Planning agency.*—A county may by ordinance create or designate one or more agencies to perform the following duties:

- (1) Make studies of the county and surrounding areas;
- (2) Determine objectives to be sought in the development of the study area;
- (3) Prepare and adopt plans for achieving these objectives;
- (4) Develop and recommend policies, ordinances, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner;
- (5) Advise the board of commissioners concerning the use and amendment of means for carrying out plans;
- (6) Exercise any functions in the administration and enforcement of various means for carrying out plans that the board of commissioners may direct;
- (7) Perform any other related duties that the board of commissioners may direct.

An agency created or designated pursuant to this section may include one or more of the following, with any staff that the board of commissioners considers appropriate:

- (1) A planning board or commission of any size (not less than three members) or composition considered appropriate, organized in any manner considered appropriate;
- (2) A joint planning board created by two or more local governments according to the procedures and provisions of G.S. Chapter 160A, Article 20, Part 1.

“§ 153-322. *Supplemental powers.*—A county or its designated planning agency may accept, receive, and disburse in furtherance of its functions funds, grants, and services made available by the federal government or its agencies, the State government or its agencies, any local government or its agencies, and private or civic sources. A county, or its designated planning agency with the concurrence of the board of commissioners, may enter into and carry out contracts with the State or federal governments or any agencies of either under which financial or other planning assistance is made available to the county and may agree to and comply with any reasonable conditions that are imposed upon the assistance.

A county, or its designated planning agency with the concurrence of the board of commissioners, may enter into and carry out contracts with any other county, city, regional council, or planning agency under which it agrees to furnish

technical planning assistance to the other local government or planning agency. A county, or its designated planning agency with the concurrence of the board of commissioners, may enter into and carry out contracts with any other county, city, regional council, or planning agency under which it agrees to pay the other local government or planning agency for technical planning assistance.

A county may make any appropriations that may be necessary to carry out an activity or contract authorized by this article, by G.S. Chapter 157A, or by G.S. Chapter 160A, Article 19 or to support any planning agency that it may create or designate pursuant to this article.

“§ 153-323. *Procedure for adopting or amending ordinances under this article and G.S. Chapter 160A, Article 19.*—Before adopting or amending any ordinance authorized by this article or G.S. Chapter 160A, Article 19, the board of commissioners shall hold a public hearing on the ordinance or amendment. The board shall cause notice of the hearing to be published once a week for two successive calendar weeks. The notice shall be published the first time not less than 15 days nor more than 25 days before the date fixed for the hearing.

“§ 153-324. *Enforcement of ordinances.*—In addition to the enforcement provisions of this article and subject to the provisions of the ordinance, any ordinance adopted pursuant to this article, to G.S. Chapter 157A, or to G.S. Chapter 160A, Article 19 may be enforced by any remedy provided by G.S. 153-123.

“Part 2. Subdivision Regulation

“§ 153-330. *Subdivision regulation.*—A county may by ordinance regulate the subdivision of land within its territorial jurisdiction. If a county, pursuant to G.S. 153-342, has adopted a zoning ordinance that applies only to one or more designated portions of its territorial jurisdiction, it may adopt subdivision regulations that apply only within the areas so zoned and need not regulate the subdivision of land in the rest of its jurisdiction.

“§ 153-331. *Contents and requirements of ordinance.*—A subdivision control ordinance may provide for the orderly growth and development of the county; for the coordination of streets and highways within proposed subdivisions with existing or planned streets and highways and with other public facilities; for the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision and of rights-of-way or easements for street and utility purposes; and for the distribution of population and traffic in a manner that will avoid congestion and overcrowding and will create conditions essential to public health, safety, and the general welfare. The ordinance may include requirements that the final plat show sufficient data to determine readily and reproduce accurately on the ground the location, bearing, and length of every street and alley line, lot line, easement boundary line, and other property boundaries, including the radius and other data for curved property lines, to an appropriate accuracy and in conformity with good surveying practice.

The ordinance may provide for the more orderly development of subdivisions by requiring the construction of community service facilities in accordance with county policies and standards, and, to assure compliance with these requirements, the ordinance may provide for the posting of bond or any other method that will offer guarantee of compliance.

The ordinance may provide for the reservation of school sites in accordance with comprehensive land use plans approved by the board of commissioners or

the planning agency. For the authorization to reserve school sites to be effective, the board of commissioners or planning agency, before approving a comprehensive land use plan, shall determine jointly with the board of education with jurisdiction over the area the specific location and size of each school site to be reserved, and this information shall appear in the plan. Whenever a subdivision that includes part or all of a school site to be reserved under the plan is submitted for approval, the board of commissioners or the planning agency shall immediately notify the board of education. That board shall promptly decide whether it still wishes the site to be reserved and shall notify the board of commissioners or planning agency of its decision. If the board of education does not wish the site to be reserved, no site may be reserved. If the board of education does wish the site to be reserved, the subdivision may not be approved without the reservation. The board of education must acquire the site within 18 months after the date the site is reserved, either by purchase or by exercise of the power of eminent domain. If the board of education has not purchased the site or begun proceedings to condemn the site within the 18 months, the subdivider may treat the land as freed of the reservation.

The ordinance may require that a plat be prepared, approved, and recorded pursuant to its provisions whenever a subdivision of land takes place.

“§ 153-332. *Ordinance to contain procedure for plat approval; approval prerequisite to plat recordation; statement by owner.*—A subdivision ordinance adopted pursuant to this part shall contain provisions setting forth the procedures to be followed in granting or denying approval of a subdivision plat before its registration.

The ordinance shall provide that the following agencies be given an opportunity to make recommendations concerning an individual subdivision plat before the plat is approved:

- (1) The district highway engineer as to proposed streets, highways, and drainage systems;
- (2) The county health director as to proposed water or sewerage systems;
- (3) Any other agency or official designated by the board of commissioners.

The ordinance may provide that final approval of each individual subdivision plat is to be given by:

- (1) The board of commissioners,
- (2) The board of commissioners on recommendation of a planning agency,
- or
- (3) A designated planning agency.

From the time that a subdivision ordinance is filed with the register of deeds of the county, no subdivision plat of land within the county's jurisdiction may be filed or recorded until it has been submitted to and approved by the appropriate board or agency, as specified in the subdivision ordinance, and until this approval is entered in writing on the face of the plat by the chairman or head of the board or agency. The register of deeds may not file or record a plat of a subdivision of land located within the territorial jurisdiction of the county that has not been approved in accordance with these provisions, and the clerk of superior court may not order or direct the recording of a plat if the recording would be in conflict with this section. The owner of land shown on a subdivision plat submitted for recording, or his authorized agent, shall sign a statement on the plat stating whether any land shown thereon is within the subdivision-regulation jurisdiction of the county.

“§ 153-333. *Effect of plat approval on dedications.*—The approval of a plat does not constitute or effect the acceptance by the county or the public of the dedication of any street or other ground, public utility line, or other public facility shown on the plat and shall not be construed to do so.

“§ 153-334. *Penalties for transferring lots in unapproved subdivisions.*—If a person who is the owner or the agent of the owner of any land located within the territorial jurisdiction of a county that has adopted a subdivision-regulation ordinance subdivides his land in violation of the ordinance or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under the ordinance and recorded in the office of the appropriate register of deeds, he is guilty of a misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land does not exempt the transaction from this penalty. The county may enjoin illegal subdivision, transfer, or sale of land by action for injunction.

“§ 153-335. *Subdivision defined.*—For purposes of this part, ‘subdivision’ means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and includes all division of land involving the dedication of a new street or a change in existing streets; however, the following is not included within this definition and is not subject to any regulations enacted pursuant to this part:

(1) The combination or recombination of portions of previously platted lots if the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the county as shown in its subdivision regulations;

(2) The division of land into parcels greater than 10 acres if no street right-of-way dedication is involved;

(3) The public acquisition by purchase of strips of land for widening or opening streets; and

(4) The division of a tract in single ownership the entire area of which is no greater than two acres into not more than three lots, if no street right-of-way dedication is involved and if the resultant lots are equal to or exceed the standards of the county as shown by its subdivision regulations.

“Part 3. Zoning

“§ 153-340. *Grant of power.*—For the purpose of promoting health, safety, morals, or the general welfare, a county may regulate and restrict

(1) the height, number of stories, and size of buildings and other structures,

(2) the percentage of lot that may be occupied,

(3) the size of yards, courts, and other open spaces,

(4) the density of population, and

(5) the location and use of buildings, structures, and land for trade, industry, residence, or other purposes, except farming.

These regulations may not affect bona fide farms, but any use of farm property for nonfarm purposes is subject to the regulations. The regulations may provide that a board of adjustment may determine and vary their application in harmony with their general purpose and intent and in accordance with general or specific rules therein contained. The regulations may also provide that the board of adjustment or the board of commissioners may issue special use permits or conditional use permits in the classes of cases or situations and in accordance with the principles, conditions, safeguards, and procedures specified therein and

may impose reasonable and appropriate conditions and safeguards upon these permits. Where appropriate, the conditions may include requirements that street and utility rights-of-way be dedicated to the public and that recreational space be provided.

“§ 153-341. *Purposes in view.*—Zoning regulations shall be made in accordance with a comprehensive plan and designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. The regulations shall be made with reasonable consideration as to, among other things, the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the county. In addition, the regulations shall be made with reasonable consideration to expansion and development of any cities within the county, so as to provide for their orderly growth and development.

“§ 153-342. *Districts; zoning less than entire jurisdiction.*—A county may divide its territorial jurisdiction into districts of any number, shape, and area that it may consider best suited to carry out the purposes of this part. Within these districts a county may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land. All regulations shall be uniform for each class or kind of building throughout each district, but the regulations in one district may differ from those in other districts.

A county may determine that the public interest does not require that the entire territorial jurisdiction of the county be zoned and may designate one or more portions of that jurisdiction as a zoning area or areas. A zoning area must originally contain at least 640 acres and at least 10 separate tracts of land in separate ownership and may thereafter be expanded by the addition of any amount of territory. A zoning area may be regulated in the same manner as if the entire county were zoned, and the remainder of the county need not be regulated.

“§ 153-343. *Method of procedure.*—The board of commissioners shall, in accordance with the provisions of this article, provide for the manner in which zoning regulations and restrictions and the boundaries of zoning districts shall be determined, established, and enforced, and from time to time amended, supplemented, or changed.

“§ 153-344. *Planning agency; zoning plan; certification to board of commissioners; amendments.*—To exercise the powers conferred by this part, a county shall create or designate a planning agency under the provisions of this article or of a local act. The planning agency shall prepare a zoning plan, including both the full text of a zoning ordinance and maps showing proposed district boundaries. The planning agency may hold public hearings in the course of preparing the plan. Upon completion, the planning agency shall certify the plan to the board of commissioners. The board of commissioners may not hold the public hearing required by G.S. 153-323 or take action until it has received a certified plan from the planning agency. Following its required public hearing, the board of commissioners may refer the plan back to the planning agency for any further recommendations that the agency may wish to make prior to final

action by the board in adopting, modifying and adopting, or rejecting the ordinance.

Zoning regulations and restrictions and zone boundaries may from time to time be amended, supplemented, changed, modified, or repealed. Whenever territory is added to an existing designated zoning area, it shall be treated as an amendment to the zoning ordinance for that area. Before an amendment may be adopted, it must be referred to the planning agency for the agency's recommendation. The agency shall be given at least 30 days in which to make a recommendation. The board of commissioners is not bound by the recommendations, if any, of the planning agency.

“§ 153-345. *Board of adjustment.*—(a) The board of commissioners may provide for the appointment and compensation, if any, of a board of adjustment consisting of at least five members, each to be appointed for three years. In appointing the original members of the board, or in filling vacancies caused by the expiration of the terms of existing members, the board of commissioners may appoint some members for less than three years to the end that thereafter the terms of all members do not expire at the same time. The board of commissioners may provide for the appointment and compensation, if any, of alternate members to serve on the board in the absence of any regular member. Alternate members shall be appointed for the same term, at the same time, and in the same manner as regular members. Each alternate member, while attending any regular or special meeting of the board and serving in the absence of a regular member, has and may exercise all the powers and duties of a regular member. If the board of commissioners does not zone the entire territorial jurisdiction of the county, each designated zoning area shall have at least one resident as a member of the board of adjustment.

A county may designate a planning agency to perform the duties of a board of adjustment in addition to its other duties.

(b) The board of adjustment shall hear and decide appeals from and review any order, requirement, decision, or determination made by an administrative official charged with enforcing an ordinance adopted pursuant to this part. Any person aggrieved or any officer, department, board, or bureau of the county may take an appeal. Appeals shall be taken within times prescribed by the board of adjustment by general rule, by filing with the officer from whom the appeal is taken and with the board of adjustment a notice of appeal, specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of adjustment, after notice of appeal has been filed with him, that because of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In that case proceedings may not be stayed except by a restraining order, which may be granted by the board of adjustment or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown. The board of adjustment shall fix a reasonable time for the hearing of the appeal, give due notice of the appeal to the parties, and decide the appeal within a reasonable time. The board of adjustment may reverse or affirm, in whole or in part, or may modify the order, requirement, decision, or determination appealed from, and shall make any order, requirement, decision, or determination that in its opinion ought to

be made in the circumstances. To this end the board has all the powers of the officer from whom the appeal is taken.

(c) The zoning ordinance may provide that the board of adjustment may permit special exceptions to the zoning regulations in classes of cases or situations and in accordance with the principles, conditions, safeguards, and procedures specified in the ordinance. The ordinance may also authorize the board to interpret zoning maps and pass upon disputed questions of lot lines or district boundary lines and similar questions that may arise in the administration of the ordinance. The board shall hear and decide all matters referred to it or upon which it is required to pass under the zoning ordinance.

(d) When practical difficulties or unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the board of adjustment may, in passing upon appeals, vary or modify any regulation or provision of the ordinance relating to the use, construction, or alteration of buildings or structures or the use of land, so that the spirit of the ordinance is observed, public safety and welfare secured, and substantial justice done.

(e) The board of adjustment, by a vote of four-fifths of its members, may reverse any order, requirement, decision, or determination of an administrative officer charged with enforcing an ordinance adopted pursuant to this part, or may decide in favor of the applicant a matter upon which the board is required to pass under the ordinance, or may grant a variance from the provisions of the ordinance. Each decision of the board is subject to review by the superior court by proceedings in the nature of certiorari.

(f) The chairman of the board of adjustment or any member temporarily acting as chairman may in his official capacity administer oaths to witnesses in any matter coming before the board.

“§ 153-346. *Conflict with other laws.*—When regulations made under authority of this part require a greater width or size of yards or courts, or require a lower height of a building or fewer number of stories, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required in any other statute or local ordinance or regulation, the regulations made under authority of this part govern. When the provisions of any other statute or local ordinance or regulation require a greater width or size of yards or courts, or require a lower height of a building or a fewer number of stories, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required by regulations made under authority of this part, the provisions of the other statute or local ordinance or regulation govern.

“§ 153-347. *Part applicable to buildings constructed by the State and its subdivisions.*—Each provision of this part is applicable to the erection, construction, and use of buildings by the State of North Carolina and its political subdivisions.

“Part 4. Building Inspection

“ § 153-350. *‘Building’ defined.*—As used in this part, the words ‘building’ or ‘buildings’ include other structures.

“ § 153-351. *Inspection department; certification of electrical inspectors.*—(a) A county may create an inspection department, consisting of one or more inspectors who may be given the titles of building inspector, electrical inspector, plumbing inspector, housing inspector, zoning inspector, heating and air-conditioning inspector, fire prevention inspector, deputy or assistant inspector,

or any other title that is generally descriptive of the duties assigned. The department may be headed by a superintendent or director of inspections.

(b) No person may perform electrical inspections pursuant to this part unless he has been certified as qualified by the Commissioner of Insurance. To be certified a person must pass a written examination based on the electrical regulations included in the latest edition of the State Building Code as filed with the Secretary of State. The examination shall be under the supervision of and conducted according to rules and regulations prescribed by the Chief State Electrical Inspector or Engineer of the State Department of Insurance and the Board of Examiners of Electrical Contractors. It shall be held quarterly, in Raleigh or any other place designated by the Chief State Electrical Inspector or Engineer.

The rules and regulations may provide for the certification of class I, class II, and class III inspectors, according to the results of the examination. The examination shall be based on the type and character of electrical installations being made in the territory in which the applicant wishes to serve as an electrical inspector. A class I inspector may serve anywhere in the State, but class II and class III inspectors shall be limited to service in the territory for which they have qualified.

The Commissioner of Insurance shall issue a certificate to each person who passes the examination, approving the person for service in a designated territory. To remain valid, a certificate must be renewed each January by payment of an annual renewal fee of \$1.00. The examination fee shall be \$5.00.

If the person appointed by a county as electrical inspector fails to pass the examination, the county shall continue to make appointments until an appointee has passed the examination. For the interim the Commissioner of Insurance may authorize the county to use a temporary inspector.

“§ 153-352. *Duties and responsibilities.*—The duties and responsibilities of an inspection department and of the inspectors in it are to enforce within the county's territorial jurisdiction State and local laws and local ordinances and regulations relating to:

- (1) The construction of buildings;
- (2) The installation of such facilities as plumbing systems, electrical systems, heating systems, refrigeration systems, and air-conditioning systems;
- (3) The maintenance of buildings in a safe, sanitary, and healthful condition;
- (4) Other matters that may be specified by the board of commissioners.

These duties and responsibilities include receiving applications for permits and issuing or denying permits, making necessary inspections, issuing or denying certificates of compliance, issuing orders to correct violations, bringing judicial actions against actual or threatened violations, keeping adequate records, and taking any other actions that may be required to adequately enforce the laws and ordinances and regulations. The board of commissioners may enact reasonable and appropriate provisions governing the enforcement of the laws and ordinances and regulations.

“§ 153-353. *Joint inspection department; other arrangements.*—A county may enter into and carry out contracts with one or more other counties or cities under which the parties agree to create and support a joint inspection department for enforcing those State and local laws and local ordinances and

regulations specified in the agreement. The governing bodies of the contracting units may make any necessary appropriations for this purpose.

In lieu of a joint inspection department, a county may designate an inspector from another county or from a city to serve as a member of the county inspection department, with the approval of the governing body of the other county or city. The inspector, while exercising the duties of the position, is a county employee.

“§ 153-354. *Financial support.*—A county may appropriate any available funds for the support of its inspection department. It may provide for paying inspectors fixed salaries, or it may reimburse them for their services by paying over part or all of any fees collected. It may fix reasonable fees for issuing permits, for inspections, and for other services of the inspection department.

“§ 153-355. *Conflicts of interest.*—Unless he is the owner of the building, no member of an inspection department may be financially interested in furnishing labor, material, or appliances for the construction, alteration, or maintenance of any building within the county's territorial jurisdiction or any part or system thereof, or in making plans or specifications therefor. No member of any inspection department may engage in any work that is inconsistent with his duties or with the interest of the county.

“§ 153-356. *Failure to perform duties.*—If a member of an inspection department willfully fails to perform the duties required of him by law, or willfully improperly issues a permit, or gives a certificate of compliance without first making the inspections required by law, or willfully improperly gives a certificate of compliance, he is guilty of a misdemeanor.

“§ 153-357. *Permits.*—No person may commence or proceed with:

- (1) The construction, reconstruction, alteration, repair, removal, or demolition of any building;
- (2) The installation, extension, or general repair of any plumbing system;
- (3) The installation, extension, alteration, or general repair of any heating or cooling equipment system; or
- (4) The installation, extension, alteration, or general repair of any electrical wiring, devices, appliances, or equipment

without first securing from the inspection department with jurisdiction over the site of the work each permit required by the State Building Code and any other State or local law or local ordinance or regulation applicable to the work. A permit shall be in writing and shall contain a provision that the work done shall comply with the State Building Code and all other applicable State and local laws and local ordinances and regulations. No permit may be issued unless the plans and specifications are identified by the name and address of the author thereof; and if the General Statutes of North Carolina require that plans for certain types of work be prepared only by a registered architect or registered engineer, no permit may be issued unless the plans and specifications bear the North Carolina seal of a registered architect or of a registered engineer. If a provision of the General Statutes of North Carolina or of any ordinance requires that work be done by a licensed specialty contractor of any kind, no permit for the work may be issued unless the work is to be performed by such a duly licensed contractor. Violation of this section constitutes a misdemeanor.

“§ 153-358. *Time limitations on validity of permits.*—A permit issued pursuant to G.S. 153-357 expires six months, or any lesser time fixed by ordinance of the county, after the date of issuance if the work authorized by the

permit has not commenced. If after commencement the work is discontinued for a period of 12 months, the permit therefor immediately expires. No work authorized by a permit that has expired may thereafter be performed until a new permit has been secured.

“ § 153-359. *Changes in work.*—After a permit has been issued, no change or deviation from the terms of the application, the plans and specifications, or the permit, except if the change or deviation is clearly permissible under the State Building Code, may be made until specific written approval of the proposed change or deviation has been obtained from the inspection department.

“ § 153-360. *Inspections of work in progress.*—As the work pursuant to a permit progresses, local inspectors shall make as many inspections of the work as may be necessary to satisfy them that it is being done according to the provisions of the applicable State and local laws and local ordinances and regulations and of the terms of the permit. In exercising this power, each member of the inspection department has a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

“ § 153-361. *Stop orders.*—Whenever a building or part thereof is being demolished, constructed, reconstructed, altered, or repaired in a hazardous manner, or in substantial violation of a State or local building law or local building ordinance or regulation, or in a manner that endangers life or property, the appropriate inspector may order the specific part of the work that is in violation or that presents such a hazard to be immediately stopped. The stop order shall be in writing and directed to the person doing the work, and shall state the specific work to be stopped, the specific reasons for the stoppage, and the conditions under which the work may be resumed. The owner or builder may appeal from a stop order to the North Carolina Commissioner of Insurance within five days after the day the order is issued. The owner or builder shall give to the Commissioner of Insurance written notice of appeal, with a copy to the local inspector. The Commissioner shall promptly conduct a hearing at which the appellant and the inspector shall be permitted to submit relevant evidence, and the Commissioner shall rule on the appeal as expeditiously as possible. Pending the ruling by the Commissioner of Insurance on an appeal, no further work may take place in violation of a stop order. Violation of a stop order constitutes a misdemeanor.

“ § 153-362. *Revocation of permits.*—The appropriate inspector may revoke and require the return of any permit by giving written notice to the permit holder, stating the reason for the revocation. Permits shall be revoked for any substantial departure from the approved application or plans and specifications, for refusal or failure to comply with the requirements of any applicable State or local laws or local ordinances or regulations, or for false statements or misrepresentations made in securing the permit. A permit mistakenly issued in violation of an applicable State or local law or local ordinance or regulation also may be revoked.

“ § 153-363. *Certificates of compliance.*—At the conclusion of all work done under a permit, the appropriate inspector shall make a final inspection. If he finds that the completed work complies with all applicable State and local laws and local ordinances and regulations and with the terms of the permit, he shall issue a certificate of compliance. No new building or part thereof may be

occupied, no addition or enlargement of an existing building may be occupied, and no existing building that has been altered or moved may be occupied until the inspection department has issued a certificate of compliance. A temporary certificate of compliance may be issued permitting occupancy for a stated period of specified portions of the building that the inspector finds may safely be occupied before completion of the entire building. Violation of this section constitutes a misdemeanor.

"§ 153-364. *Periodic inspections for hazardous or unlawful conditions.*—The inspection department shall make periodic inspections, subject to the board of commissioners' directions, for unsafe, unsanitary, or otherwise hazardous and unlawful conditions in buildings within its territorial jurisdiction. In addition, it shall make any necessary inspections when it has reason to believe that such conditions may exist in a particular building. In exercising these powers, each member of the inspection department has a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

"§ 153-365. *Defects in buildings to be corrected.*—If a local inspector finds any defect in a building, or finds that the building has not been constructed in accordance with the applicable State and local laws and local ordinances and regulations, or finds that a building because of its condition is dangerous or contains fire hazardous conditions, he shall notify the owner or occupant of the building of its defects, hazardous conditions, or failure to comply with law. The owner and the occupant shall each immediately remedy the defects, hazardous conditions, or violations of law in the property each owns.

"§ 153-366. *Unsafe buildings condemned.*—The inspector shall condemn as unsafe each building that appears to him to be especially dangerous to life because of its liability to fire, bad conditions of walls, overloaded floors, defective construction, decay, unsafe wiring or heating system, inadequate means of egress, or other causes; and he shall affix a notice of the dangerous character of the building to a conspicuous place on its exterior wall.

"§ 153-367. *Removing notice from condemned building.*—If a person removes a notice that has been affixed to a building by a local inspector and that states the dangerous character of the building, he is guilty of a misdemeanor.

"§ 153-368. *Action in event of failure to take corrective action.*—If the owner of a building that has been condemned as unsafe pursuant to G.S. 153-366 fails to take prompt corrective action, the local inspector shall by certified or registered mail to his last known address or by personal service give him written notice:

- (1) that the building is in a condition that appears to constitute a fire or safety hazard or to be dangerous to life, health, or other property;
- (2) that a hearing will be held before the inspector at a designated place and time, not later than 10 days after the date of the notice, at which time the owner is entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and
- (3) that following the hearing, the inspector may issue any order to repair, close, vacate, or demolish the building that appears appropriate.

If the name or whereabouts of the owner cannot after due diligence be discovered, the notice shall be considered properly and adequately served if a copy thereof is posted on the outside of the building in question at least 10 days

before the day of the hearing and a notice of the hearing is published at least once not later than one week before the hearing.

“§ 153-369. *Order to take corrective action.*—If, upon a hearing held pursuant to G.S. 153-368, the inspector finds that the building is in a condition that constitutes a fire or safety hazard or renders it dangerous to life, health, or other property, he shall issue a written order, directed to the owner of the building, requiring the owner to remedy the defective conditions by repairing, closing, vacating, or demolishing the building or taking other necessary steps, within such period, not less than 60 days, as the inspector may prescribe.

“§ 153-370. *Appeal; finality of order not appealed.*—An owner who has received an order under G.S. 153-369 may appeal from the order to the board of commissioners by giving written notice of appeal to the inspector and to the clerk within 10 days following the day the order is issued. In the absence of an appeal, the order of the inspector is final. The board of commissioners shall hear any appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

“§ 153-371. *Failure to comply with order.*—If the owner of a building fails to comply with an order issued pursuant to G.S. 153-369 from which no appeal has been taken, or fails to comply with an order of the board of commissioners following an appeal, he is guilty of a misdemeanor.

“§ 153-372. *Equitable enforcement.*—Whenever a violation is denominated a misdemeanor under the provisions of this part, the county, either in addition to or in lieu of other remedies, may initiate any appropriate action or proceeding to prevent, restrain, correct, or abate the violation or to prevent the occupancy of the building involved.

“§ 153-373. *Records and reports.*—The inspection department shall keep complete, permanent, and accurate records in convenient form of each application received, each permit issued, each inspection and reinspection made, and each defect found, each certificate of compliance granted, and all other work and activities of the department. The department shall submit periodic reports to the board of commissioners and to the Commissioner of Insurance as the board or the Commissioner may require.

“§ 153-374. *Appeals.*—Unless otherwise provided by law, any appeal from an order, decision, or determination of a member of a local inspection department pertaining to the State Building Code or any other State building law shall be taken to the Commissioner of Insurance or other official specified in G.S. 143-139, by filing a written notice with him and with the inspection department within 10 days after the day of the order, decision, or determination. Further appeals may be taken to the State Building Code Council or to the courts as provided by law.

“§ 153-375. *Establishment of fire limits.*—A county may by ordinance establish and define fire limits in any area within the county and not within a city. The limits may include only business and industrial areas. Within any fire limits, no frame or wooden building or addition thereto may be erected, altered, repaired, or moved (either into the fire limits or from one place to another within the limits) except upon the permit of the inspection department and approval of the Commissioner of Insurance. The board of commissioners may make additional regulations necessary for the prevention, extinguishment, or mitigation of fires within the fire limits.

“Article 19

“Regional Planning Commissions

“§ 153-391. *Creation; admission of new members.*—Two or more counties, cities, or counties and cities may create a regional planning commission by adopting identical concurrent resolutions to that effect in accordance with the provisions and procedures of this article. A county or city may join an existing regional planning commission with the consent of the existing member governments.

The resolution creating a regional planning commission may be modified, amended, or repealed by the unanimous action of the member governments.

“§ 153-392. *Contents of resolution.*—The resolutions creating a regional planning commission shall:

- (1) Specify the name of the commission;
- (2) Establish the number of delegates to represent each member government, fix the delegates' terms of office and the conditions, if any, for their removal, provide methods for filling vacancies, and prescribe the compensation and allowances, if any, to be paid to delegates;
- (3) Set out the method of determining the financial support that will be given to the commission by each member government;
- (4) Set out the budgetary and fiscal control procedures to be followed by the commission, which shall substantially comply with the Local Government Budget and Fiscal Control Act (G.S. Chapter 159, Subchapter III).

In addition the resolution may, but need not, contain rules and regulations for the conduct of commission business and any other matters pertaining to the organization, powers, and functioning of the commission that the member governments consider appropriate.

“§ 153-393. *Withdrawal from commission.*—A member government may withdraw from a regional planning commission by giving at least two years' written notice to the other counties and cities involved.

“§ 153-394. *Organization of the commission.*—Upon its creation, a regional planning commission shall meet at a time and place agreed upon by the counties and cities involved. It shall organize by electing a chairman and any other officers that the resolution specifies or that the commission considers advisable. The commission may adopt bylaws for the conduct of its business. All commission meetings shall be open to the public.

The chairman of the commission may appoint any committees authorized by the bylaws. Committee members need not be delegates to the commission.

“§ 153-395. *Powers and duties.*—A regional planning commission may:

- (1) Apply for, accept, receive, and disburse funds, grants, and services made available to it by the State of North Carolina or any agency thereof, the federal government or any agency thereof, any unit of local government or any agency thereof, or any private or civic agency;
- (2) Employ personnel;
- (3) Contract with consultants;
- (4) Contract for services with the State of North Carolina, any other state, the United States, or any agency of those governments;
- (5) Study and inventory regional goals, resources, and problems;
- (6) Prepare and amend regional development plans, which may include recommendations for land use within the region, recommendations concerning the need for and general location of public works of regional concern,

recommendations for economic development of the region, and any other relevant matters;

(7) Cooperate with and provide assistance to federal, State, other regional, and local planning activities within the region;

(8) Encourage local efforts toward economic development;

(9) Make recommendations for review and action to its member governments and other public agencies that perform functions within the region;

(10) Exercise any other power necessary to the discharge of its duties.

“§ 153-396. *Fiscal affairs*.—Each county and city having membership in a regional planning commission may appropriate to the commission revenues not otherwise limited as to use by law. Services of personnel, use of equipment and office space, and other services may be made available to a commission by its member governments as a part of their financial support.

“§ 153-397. *Reports*.—Each regional planning commission shall prepare and distribute to its member governments and make available to the public an annual report of its activities, including a financial statement.

“§ 153-398. *Regional planning and economic development commissions*.—Two or more counties, cities, or counties and cities may create a regional planning and economic development commission by adopting identical concurrent resolutions to that effect. Such a commission has the powers granted by this article and the powers granted by G.S. Chapter 158, Article 2. If such a commission is created, it shall maintain separate books of account for appropriations and expenditures made pursuant to this article and for appropriations and expenditures made pursuant to G.S. Chapter 158, Article 2.

“Article 20

“Consolidation and Governmental Study Commissions

“§ 153-401. *Establishment; support*.—(a) Two or more counties or cities or counties and cities may by concurrent resolutions of their governing bodies establish a charter or governmental study commission as provided in this section:

(1) Two or more counties that are contiguous or that lie within a continuous boundary may create a commission to study the consolidation of the counties or of one or more functions and services of the counties.

(2) Two or more cities that are contiguous or that lie within a continuous boundary may create a commission to study the consolidation of the cities or of one or more functions and services of the cities.

(3) A county and one or more cities within the county may create a commission to study the consolidation of the county and the city or cities or of one or more of their functions and services.

(b) A county or city that participates in the establishment of a commission pursuant to this article may appropriate for the support of the commission any revenues not otherwise limited as to use by law.

“§ 153-402. *Purposes of a commission*.—A commission established pursuant to this article may be charged with any of the following purposes:

(1) To study the powers, duties, functions, responsibilities, and organizational structures of the counties or cities that established the commission and of other units of local government and public agencies within those counties or cities;

(2) To prepare a report on its studies and findings;

(3) To prepare a plan for consolidating one or more functions and services of the governments that established the commission;

(4) To prepare drafts of any agreements or legislation necessary to effect the consolidation of one or more functions and services;

(5) To prepare a plan for consolidating into a single government some or all of the governments that established the commission;

(6) To prepare drafts of any legislation necessary to effect the plan of governmental consolidation;

(7) To call a referendum, as provided in G.S. 153-405, on the plan of governmental consolidation.

“§ 153-403. *Content of concurrent resolutions.*—The concurrent resolutions establishing a commission shall:

(1) Set forth the purposes that are to be vested in the commission pursuant to G.S. 153-402;

(2) Determine the composition of the commission, the manner of appointment of its members, and the manner of selection of its officers;

(3) Determine the compensation, if any, to be paid to commission members;

(4) Provide for the organizational meeting of the commission;

(5) Set out the method for determining the financial support that will be given to the commission by each of the governments establishing the commission;

(6) Set forth the date by which the commission is to complete its work;

(7) Set forth any other directions or limitations considered necessary.

“§ 153-404. *Powers of a commission.*—A commission established pursuant to this article may:

(1) Adopt rules and regulations for the conduct of its business;

(2) Apply for, accept, receive, and disburse funds, grants, and services made available to it by the State of North Carolina or any agency thereof, the federal government or any agency thereof, any unit of local government, or any private or civic agency;

(3) Employ personnel;

(4) Contract with consultants;

(5) Hold hearings in the furtherance of its business;

(6) Take any other action necessary or expedient to the furtherance of its business.

“§ 153-405. *Referendum; General Assembly action.*—If authorized to do so by the concurrent resolutions that established it, a commission may call a referendum on its proposed plan of governmental consolidation. The referendum may be held on the same day as any other referendum or election in the county or counties involved, but may not otherwise be held during the period beginning 30 days before and ending 30 days after the day of any other referendum or election to be conducted by the board or boards of elections conducting the referendum and already validly called or scheduled by law.

The proposition submitted to the voters shall be substantially in one of the following forms:

(1) Shall the County of _____ and the County of _____ be consolidated?

(2) Shall the City of _____ and the City of _____ be consolidated?

(3) Shall the City of _____ be consolidated with the County of _____?

If the proposition is to consolidate two or more counties or to consolidate two or more cities, to be approved it must receive the votes of a majority of those voting in each of the counties or cities, as the case may be. If the proposition is to consolidate one or more cities with a county, to be approved it must receive the votes of a majority of those voting in the referendum. In addition, no governmental consolidation may become effective until enacted into law by the General Assembly.

“Article 23

“Miscellaneous Provisions

“§ 153-435. *Liability insurance; damage suits against a county involving governmental functions.*—(a) A county may contract to insure itself and any of its officers, agents, or employees against liability for wrongful death or negligent or intentional damage to person or property or against absolute liability for damage to person or property caused by an act or omission of the county or of any of its officers, agents, or employees when acting within the scope of their authority and the course of their employment. The board of commissioners shall determine what liabilities and what officers, agents, and employees shall be covered by any insurance purchased pursuant to this subsection.

Purchase of insurance pursuant to this subsection waives the county's governmental immunity, to the extent of insurance coverage, for any act or omission occurring in the exercise of a governmental function. By entering into an insurance contract with the county, an insurer waives any defense based upon the governmental immunity of the county.

(b) If a county has waived its governmental immunity pursuant to subsection (a) of this section, any person, or if he dies, his personal representative, sustaining damages as a result of an act or omission of the county or any of its officers, agents, or employees, occurring in the exercise of a governmental function, may sue the county for recovery of damages. To the extent of the coverage of insurance purchased pursuant to subsection (a) of this section, governmental immunity may not be a defense to the action. Otherwise, however, the county has all defenses available to private litigants in any action brought pursuant to this section without restriction, limitation, or other effect, whether the defense arises from common law or by virtue of a statute.

Despite the purchase of insurance as authorized by subsection (a) of this section, the liability of a county for acts or omissions occurring in the exercise of governmental functions does not attach unless the plaintiff waives the right to have all issues of law or fact relating to insurance in the action determined by a jury. The judge shall hear and determine these issues without resort to a jury, and the jury shall be absent during any motion, argument, testimony, or announcement of findings of fact or conclusions of law relating to these issues unless the defendant requests a jury trial on them.

“§ 153-436. *Photographic reproduction of county records.*—(a) A county may provide for the reproduction, by photocopy, photograph, microphotograph, or any other method of reproduction that gives legible and permanent copies, of instruments, documents, and other papers filed with the register of deeds and of any other county records. The county shall keep each reproduction of an instrument, document, paper, or other record in a fire-resistant file, vault, or similar container. If a duplicate reproduction is made to provide a security-copy, the county shall keep the duplicate in a fire-resistant file, vault, or similar container separate from that housing the principal reproduction.

If a county has provided for reproducing records, any custodian of public records of the county may cause to be reproduced any of the records under, or coming under, his custody.

(b) If a county has provided for reproducing some or all county records, the custodian of any instrument, document, paper, or other record may permit it to be removed from its regular repository for up to 24 hours in order to be reproduced. An instrument, document, paper or other record may be removed from the county in order to be reproduced. The board of commissioners may permit an instrument, document, paper, or other record to be removed for longer than 24 hours if a longer period is necessary to complete the process of reproduction.

(c) The original of any instrument, document, or other paper received by the register of deeds and reproduced pursuant to this article shall be filed, maintained, and disposed of in accordance with G.S. 161-17 and G.S. 121-5. The original of any other county record that is reproduced pursuant to this article may be kept by the county or disposed of pursuant to G.S. 121-5.

(d) If an instrument, document, or other paper received by the register of deeds is reproduced pursuant to this article, the recording of the reproduction is a sufficient recording for all purposes.

(e) A reproduction, made pursuant to this article, of an instrument, document, paper, or other record is as admissible in evidence in any judicial or administrative proceeding as the original itself, whether the original is extant or not. An enlargement or other facsimile of the reproduction is also admissible in evidence if the original reproduction is extant and available for inspection under the direction of the court or administrative agency.

“§ 153-437. *Assistance to historical organizations.*—(a) A county or city may appropriate revenues not otherwise limited as to use by law to a local historical or preservation society, museum, or other similar organization. Before such an appropriation may be made, the recipient organization shall adopt and present to the county or city a resolution requesting the funds and describing the intended use of the funds. The funds may be used for preserving historic sites, buildings, structures, areas, or objects; for recording and publishing materials relating to the history of the area; for establishing or maintaining historical museums or projects; for paying salaries of personnel employed in such museums or projects; for the costs of acquiring, recording, and maintaining materials and equipment; and for any other purposes that are approved by the county or city and that contribute to the preservation of historic sites, buildings, structures, areas, or objects, or historic materials. The ordinance making the appropriation shall state specifically what the appropriation is to be used for, and the governing board of the county or city shall require that the recipient account for the appropriation at the close of the fiscal year.

(b) A county or city, a board of education, or the board of trustees of a public library may make available space in a building under its control to a local historical society, historical museum, or other historical organization.

(c) This section is supplemental to and does not supersede any other law.

“§ 153-438. *Beach erosion control and flood and hurricane protection works.*—A county may appropriate revenues not otherwise limited as to use by law to finance the acquisition, construction, reconstruction, extension, maintenance, improvement, or enlargement of groins, jetties, dikes, moles, walls, sand dunes, vegetation, or other types of works or improvements that are

designed for controlling beach erosion, for protection from hurricane floods, or for preserving or restoring facilities and natural features that afford protection to the beaches and other land areas of the county and to the life and property of the county.

“§ 153-439. *Support of extension activities; personnel rules for extension employees.*—A county may support the work of the North Carolina Agricultural Extension Service and for these purposes may appropriate revenues not otherwise limited as to use by law.

If a county adopts rules and regulations concerning annual leave, sick leave, hours of employment, and holidays that apply to county employees generally, these rules and regulations apply to county extension employees. Otherwise, the rules and regulations adopted by the North Carolina Agricultural Extension Service concerning these matters apply to county extension employees.

“§ 153-440. *Promotion of soil and water conservation work.*—A county may cooperate with and support the work of the Federal Soil Conservation Service and the State and local soil and water conservation agencies and districts and for these purposes may appropriate revenues not otherwise limited as to use by law.

“§ 153-441. *County surveyor.*—A county may appoint a person registered as a land surveyor pursuant to G.S. Chapter 89 as county surveyor.

“§ 153-442. *Animal shelters.*—A county may establish, equip, operate, and maintain an animal shelter or may contribute to the support of an animal shelter, and for these purposes may appropriate funds not otherwise limited as to use by law.

“§ 153-443. *Redesignation of site of ‘courthouse door’ etc.*—If a county determines that the traditional location of the ‘courthouse,’ the ‘courthouse door,’ the ‘courthouse bulletin board’ or the ‘courthouse steps’ has become inappropriate or inconvenient for the doing of any act or the posting of any notice required by law to be done or posted at such a site, the county may by ordinance designate some appropriate or more convenient location for the site. The board of commissioners shall cause such an ordinance to be published at least once within 30 days after the day it is adopted and shall cause a copy of it to be posted for 60 days at the traditional location.

“§ 153-444. *Parks and recreation.*—A county may establish parks and provide recreational programs pursuant to G.S. Chapter 160A, Article 18.

“§ 153-445. *Miscellaneous powers found in G.S. Chapter 160A.*—(a) A county may take action under the following provisions of G.S. Chapter 160A:

1. G.S. Chapter 160A, Article 20, Part 1.—Joint Exercise of Powers.
2. G.S. Chapter 160A, Article 21, Part 2.—Regional Councils of Governments.
3. G.S. 160A-487.—Financial support for rescue squads.
4. G.S. 160A-488.—Art galleries and museums.
5. G.S. 160A-489.—Human relations programs.

(b) This section is for reference only, and the failure of any section of G. S. Chapter 160A to appear in this section does not affect the applicability of that section to counties.”

Sec. 2. Chapter 956 of the 1969 Session Laws continues in effect and is not repealed by this act. However, Chapter 956 shall not be codified in G.S. Chapter 153.

The repeal by this act of former G.S. 153-4 and 153-5 does not affect in any way the structure or manner of election of any board of county commissioners

the structure or manner of election of which was established by those sections. Rather, as provided by G.S. 153-34, as enacted by Section 1 of this act, each board of commissioners shall continue to have the same structure and manner of election as it has on the effective date of this act until that structure or manner of election is changed in accordance with law.

The following acts enacted by and bills pending in the 1973 General Assembly shall be codified in G.S. Chapter 153 as enacted by Section 1 of this act, as provided herein:

1. Chapter 489, 1973 Session Laws, shall be codified as Article 16, beginning with G.S. 153-300.

2. House Bill 333, if enacted by the 1973 General Assembly, shall be codified by codifying Section 1 thereof as G.S. 153-149, replacing G.S. 153-149 as set out in Section 1 of this act.

3. If House Bill 338 or Senate Bill 271 is enacted by the 1973 General Assembly, then Section 2 thereof shall be codified as G.S. 153-166.

4. If House Bill 390 is enacted by the 1973 General Assembly, then G.S. 153-273 as enacted by that bill shall be codified as G.S. 153-292.

Sec. 3. Article 15 of Chapter 153 of the General Statutes, G.S. 153-177 through G.S. 153-198, as the article existed immediately before the effective date of this act, is re-enacted and transferred to Chapter 162 of the General Statutes as a new Article 4, G.S. 162-26 through G.S. 162-47.

Sec. 4. Article 25 of Chapter 153 of the General Statutes, G.S. 153-295 through G.S. 153-324, as the article existed immediately before the effective date of this act, is re-enacted and transferred to Chapter 162A of the General Statutes as a new Article 5, G.S. 162A-59 through G.S. 162A-77.

Sec. 5. G.S. Chapter 154 ("County Surveyor") is repealed.

Sec. 6. (a) Article 3 of Chapter 67 of the General Statutes (G.S. 67-19 through G.S. 67-28) is repealed.

(b) The following sections of Chapter 67 of the General Statutes are repealed: G.S. 67-5, G.S. 67-6, G.S. 67-7, G.S. 67-8, G.S. 67-9, G.S. 67-10, G.S. 67-11, G.S. 67-13, G.S. 67-33, G.S. 67-34, G.S. 67-35.

(c) All local acts and clauses of local acts modifying any section of the General Statutes repealed by this section or otherwise relating to the use of the proceeds of the dog tax heretofore levied pursuant to G.S. 67-5 (herein repealed) are repealed.

(d) G.S. 67-30 is rewritten as follows:

"§ 67-30. *Appointment of animal control officers authorized; salary, etc.*—A county may appoint one or more animal control officers and may fix their salaries, allowances, and expenses."

Sec. 7. Article 10 of Chapter 160A of the General Statutes is amended by inserting a new section as follows:

"§ 160A-238. *Authority to make assessments for beach erosion control and flood and hurricane protection works.*—A city may make special assessments, according to the procedures of this article, against benefited property within the city for all or part of the costs of acquiring, constructing, reconstructing, extending, or otherwise building or improving beach erosion control or flood and

hurricane protection works. Assessments for these projects may be made on the basis of:

- (1) The frontage abutting on the project, at an equal rate per foot of frontage; or
- (2) The frontage abutting on a beach or shoreline protected or benefited by the project, at an equal rate per foot of frontage; or
- (3) The area of land benefited by the project, at an equal rate per unit of area; or
- (4) The valuation of land benefited by the project, being the value of the land without improvements as shown on the tax records of the county, at an equal rate per dollar of valuation; or
- (5) A combination of two or more of these bases.

Whenever the basis selected for assessment is either area or valuation, the council shall provide for the laying out of one or more benefit zones according to the distance from the shoreline, the distance from the project, the elevation of the land, or other relevant factors. If more than one benefit zone is established, the council shall establish differing rates of assessment to apply uniformly throughout each benefit zone."

Sec. 8. The Revisor of Statutes is authorized to designate the new General Statutes Chapter enacted by Section 1 of this act as General Statutes Chapter 153A.

Sec. 9. No provision of this act is intended, nor may any be construed, to affect in any way a right or interest, public or private:

(a) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to a provision of law repealed by this act; or

(b) Derived from or which might be sustained or preserved in reliance upon, action (including the adoption of orders, resolutions, or ordinances) taken before the effective date of this act pursuant to or within the scope of a provision of law repealed by this act.

Sec. 10. No law repealed, expressly or by implication, before the effective date of this act and no law granting authority that has been exhausted before the effective date of this act is revived by:

(a) The repeal in this act of any act repealing such a law; or

(b) Any provision of this act that disclaims an intention to repeal or affect enumerated, designated, or described laws.

Sec. 11. No provision of this act is intended, nor may any be construed, to impair the obligation of any bond, note, or coupon outstanding on the effective date of this act.

Sec. 12. No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act is abated or otherwise affected by the adoption of this act.

Sec. 13. If a provision of this act or the application of a provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Sec. 14. All laws and clauses of laws in conflict with the provisions of this act are repealed.

Sec. 15. This act is effective February 1, 1974.

In the General Assembly read three times and ratified, this the 24th day of May, 1973.

S. B. 747

CHAPTER 823

AN ACT TO AMEND CHAPTER 113 OF THE GENERAL STATUTES OF NORTH CAROLINA TO INSERT A NEW ARTICLE TO BE KNOWN AS ARTICLE 7A TO PROVIDE FOR GREATER SAFETY IN THE HUNTING OF MIGRATORY WILD WATERFOWL.

The General Assembly of North Carolina enacts:

Section 1. Chapter 113 of the General Statutes is hereby amended to insert a new Article following the present Article 7 to be designated as Article 7A and to read as follows:

“Article 7A.

“Safe Distances for Hunting Migratory Wild Waterfowl.

“§ 113-109.1. *Hunting migratory wild waterfowl in the vicinity of another waterfowl blind.*—It shall be unlawful for any person to hunt, shoot, take or intentionally disturb migratory wild waterfowl from a blind, boat, float, raft, mat or other buoyant craft or from any other location, position or device nearer than 500 yards to any other blind, boat, float, raft, mat or other buoyant craft, or other location, position or device which is permanently established for hunting of migratory wild waterfowl by the land or riparian owner or one with the written permission of said land or riparian owner; unless, said person is hunting, shooting, taking or intentionally disturbing migratory wild waterfowl from a blind, boat, float, raft, mat or other buoyant craft or other location, position or device located on land owned or within the riparian water area of land owned by said person or for which said person has written permission of the owner; except when such person is in active pursuit of a visible, crippled waterfowl which was legally shot by said person from a position to which said person was entitled.

“§ 113-109.2. *Penalty for violation.*—Any person who violates the provisions of G.S. 113-109.1 shall be deemed guilty of a trespass and such violation shall constitute a misdemeanor and subject the offender to a fine of not less than ten dollars (\$10.00) nor more than two hundred and fifty dollars (\$250.00) or confinement in jail for a period not to exceed five months or both in the discretion of the court. Upon conviction for a second violation of G.S. 113-109.1, the trial court shall immediately revoke the license of the violator for hunting privileges in North Carolina for the balance of the current open season and said violator shall not be eligible for a license granting hunting privileges in North Carolina during the current open season but may be eligible for license thereafter.”

Sec. 1.5. This act shall not apply to Anson, Beaufort, Carteret, Hyde, Montgomery, and Tyrrell counties.

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall be effective upon its ratification.

In the General Assembly read three times and ratified, this the 24th day of May, 1973.

S. B. 955

CHAPTER 824

AN ACT TO CORRECT A TECHNICAL ERROR IN CHAPTER 206 OF THE 1973 SESSION LAWS.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 206 of the 1973 Session Laws is hereby amended and rewritten to read as follows:

“Sec. 2. Subsection (g) of G.S. 20-16.2, as it appears in the 1971 Cumulative Supplement of Volume 1C of the General Statutes, is hereby reenacted as subsection (h) of G.S. 20-16.2.”

Sec. 2. This act shall become effective on June 1, 1973.

In the General Assembly read three times and ratified, this the 24th day of May, 1973.

H. B. 1169

CHAPTER 825

AN ACT TO AMEND ARTICLE 24 OF CHAPTER 143 OF THE GENERAL STATUTES WITH RESPECT TO THE WILDLIFE RESOURCES COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding any provision of the Executive Organization Act of 1973 to the contrary, the Wildlife Resources Commission shall exercise all its prescribed statutory powers independently of the Secretary of Natural and Economic Resources. To the end that the independence of the Wildlife Resources Commission be preserved, the Executive Organization Act of 1973 shall not be construed as amending or repealing the provisions of G.S. 143A-118.

Sec. 2. G.S. 143-241, as the same appears in the 1971 Cumulative Supplement to the 1964 Replacement Volume 3C of the General Statutes, is hereby amended by deleting the last paragraph and by inserting in lieu thereof the following:

“Vacancies occurring through expiration of terms of the members of the Commission shall be filled by appointment by the Governor from a list of five names from each Wildlife District, recommended and submitted by the adult interested citizens of each respective district. When the term of a member expires, the Director or his designee shall call a meeting of the adult interested citizens in that district not later than 60 days prior to the expiration of such member's term. Such meetings shall be held as near to the geographic center of the district as possible and in a public building. Notice of the meeting shall be given by publication once each week for four successive weeks, the fourth notice appearing at least 10 days prior to the meeting, in a newspaper having general circulation in the district. In addition, notice of the meeting shall be posted at the courthouse door of each county in the district at least 30 days prior to said meeting. At such meeting, the adult interested citizens in attendance shall select, and the Director shall submit to the Governor, a list of five residents and citizens of the district who are well informed on the subject of wildlife conservation and restoration. The Governor shall appoint a successor to the member whose term is about to expire within 60 days following the submission to him by the Director of the list hereinabove referred to and in no event later than July 1.

Meetings of adult interested citizens held pursuant to this section shall be conducted pursuant to Robert's Rules of Order. When the meeting has been called to order, any adult interested citizen may place in nomination the name of an adult resident citizen of the respective district to be considered for nomination. After the nominations have ceased, each adult interested citizen present may vote for one of the nominees. The five receiving the most votes shall be submitted to the Governor.

'Adult interested citizen' as used in this section means any adult interested citizen who is a resident of any county within the district. All members appointed pursuant to this section shall serve until their successors are appointed and qualified."

Sec. 3. G.S. 143-242 is rewritten to read as follows:

"§ 143-242. *Vacancies by death, resignation or otherwise.*—Vacancies on the Commission occurring by reason of death, resignation or otherwise for an unexpired term of a duration of more than one year shall be filled as provided in G.S. 143-241. Vacancies on the Commission by reason of death, resignation or otherwise for an unexpired term of one year or less shall be filled by the Governor by appointment of an adult resident citizen from the appropriate district.

The Governor shall have the power to remove any member of the Commission from office for misfeasance, malfeasance, or nonfeasance."

Sec. 4. G.S. 143-243 is hereby amended by adding at the end thereof the following sentence: "Meetings of the Commission shall be conducted pursuant to Robert's Rules of Order."

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of May, 1973.

H. B. 1362

CHAPTER 826

AN ACT TO PROVIDE FOR CONFORMING STATE WELFARE LAW TO FEDERAL LAW.

The General Assembly of North Carolina enacts:

Section 1. The provisions of Chapter 714 of the 1973 Session Laws, entitled an act to provide for disregarding some of the contributions of absent parents under the aid to families with dependent children program, shall cease to be effective in the event of and upon any final determination by the Secretary of Health, Education and Welfare that such provisions do not comply substantially with any provision required by federal law to be included in a State plan for aid and services to needy families with children.

Sec. 2. This act shall become effective on July 1, 1973.

In the General Assembly read three times and ratified, this the 24th day of May, 1973.

RESOLUTIONS

S. R. 1

RESOLUTION 1

A SENATE JOINT RESOLUTION RELATIVE TO THE INAUGURATION OF THE HONORABLE JAMES E. HOLSHOUSER, JR., AS GOVERNOR OF NORTH CAROLINA; AND INFORMING HIS EXCELLENCY, GOVERNOR JAMES E. HOLSHOUSER, JR., THAT THE GENERAL ASSEMBLY IS ORGANIZED AND READY TO PROCEED WITH PUBLIC BUSINESS AND INVITING THE GOVERNOR TO ADDRESS A JOINT SESSION OF THE SENATE AND HOUSE OF REPRESENTATIVES AT 3:00 P.M., WEDNESDAY, JANUARY 17, 1973.

Whereas, after the election of the Honorable James E. Holshouser, Jr., as Governor of North Carolina in the General Election of November 7, 1972, the oath of office as Governor was administered to the Honorable James E. Holshouser, Jr., by the Honorable William H. Bobbitt, Chief Justice of the Supreme Court of North Carolina on January 5, 1973, at the State Capitol on the East lawn in the city of Raleigh, North Carolina;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. A committee of two on the part of the Senate and three on the part of the House of Representatives shall be appointed to notify His Excellency, James E. Holshouser, Jr., Governor of North Carolina, that the General Assembly is organized and is now ready to proceed with public business and to invite him to deliver an address to a Joint Session of the General Assembly at 3:00 p.m., Wednesday, January 17, 1973.

Sec. 2. The full text of the Governor's message shall be carried in the appendix of the House and Senate Journals of the 1973 Session of the General Assembly and two thousand (2,000) copies of this address shall be forthwith printed and delivered to the Governor's office for such distribution of same as he may desire to make.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of January, 1973.

H. R. 25

RESOLUTION 2

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF HARLEY B. GASTON, FORMER LEGISLATOR.

Whereas, Harley B. Gaston, a native of Gaston County, North Carolina, and long time resident of Belmont, North Carolina, died at the age of 81 on January 3, 1973, after a long and dedicated life of public service, it is fitting that the General Assembly of North Carolina should take note of some of his contributions to the State of North Carolina;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That Harley B. Gaston was born in Gaston County, North Carolina, on November 20, 1891, and attended school and graduated from Trinity College (Duke University) and spent three years as a public school teacher. After serving in the United States Army during World War I as a second lieutenant in an infantry company, he returned to North Carolina where he attended the University of North Carolina Law School and earned his law degree.

In 1920, Harley B. Gaston opened a law office in Belmont, North Carolina, in partnership with Emery B. Denny who later became a Chief Justice of the North Carolina Supreme Court. Gaston maintained his law practice in Belmont, North Carolina, for 52 years. Since 1955, he had been the senior partner in Gaston, Smith and Gaston.

Harley B. Gaston worked for many years to further the improvement of his community. He served as city attorney, city clerk and treasurer for the city, during which time Belmont grew from a crossroads town of 2,000 to a city of 5,000. He was a former president of the Belmont Rotary Club, former Commander of Auten-Stowe American Legion Post, and served on the advisory boards of Belmont Abbey and Sacred Heart Colleges. He was active in the church affairs of his community, serving as a member of the Board of Stewards of First Methodist Church where he taught the Men's Bible Class for years.

Harley B. Gaston, throughout his life and career, held an active interest in the politics of the State of North Carolina. He served two terms in the State House of Representatives and one term in the North Carolina Senate during the 1920's. Later, he helped launch the careers of many others interested in politics. He was prominent in Gaston County politics for more than 50 years and held many offices within his Party's organization. He served several terms on the Gaston County Board of Elections and in 1967 was named Belmont's Distinguished Citizen of the Year by the Belmont Chamber of Commerce.

In his long and varied career, Harley B. Gaston earned the respect and affection of his fellow workers and colleagues for his courage and candor, his vigor and determination, his keen intelligence, and the lively enthusiasm he gave to all his endeavors.

Sec. 2. That the North Carolina General Assembly recognizes and expresses its appreciation for the public services rendered by Harley B. Gaston, services which have contributed greatly to the betterment of North Carolina.

Sec. 3. That this resolution shall become a part of the public records of the 1973 Session of the General Assembly of North Carolina, and the Secretary of State shall cause a certified copy to be transmitted to the family of Harley B. Gaston.

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Sec. 4. That this resolution shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 22nd day of January, 1973.

H. R. 116

RESOLUTION 3

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF ARCHIE BURRUS, FORMER MEMBER OF THE NORTH CAROLINA GENERAL ASSEMBLY.

Whereas, Archie Burrus, who served as a distinguished Representative from Dare County, died the eighteenth day of November, 1971, at the age of fifty-one; and

Whereas, in the passing of Archie Burrus, North Carolina and Dare County lost a most beloved and respected citizen; and

Whereas, Archie Burrus was a devoted member of Mount Olive Methodist Church, where he served as Treasurer, Member of the Board of Stewards and Finance, Member of the Board of Trustees, and President of the Methodist Men's Club; and

Whereas, Archie Burrus was an active and loyal member of the Manteo AF & AM; Sudan Temple of New Bern; Rotary Club, which he served as President; Fort Raleigh No. 26, American Legion, which he served as President; and

Whereas, Archie Burrus served his Country, his State, and his Nation as a member of the United States Navy from 1942 until 1946; and

Whereas, Archie Burrus loyally served his community as a member of the Nags Head Town Council; and

Whereas, Archie Burrus distinguished himself in promoting tourism to his beloved Dare County, serving as a member of the North Carolina Motel Association, the Travel Council of North Carolina, and as Chairman and Director of the Dare County Tourist Bureau; and

Whereas, he is survived by his wife and his son; and

Whereas, the General Assembly desires to honor the memory of Archie Burrus and to extend its sympathy to the surviving members of his family;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly recognizes and expresses its appreciation for the many years of selfless public service rendered by Archie Burrus to Dare County, to the State of North Carolina and to the Nation, with full knowledge of the valuable contributions that he made in all aspects of his public life, with a sense of deep loss at his passing.

Sec. 2. The General Assembly extends its sincere sympathy to the family of Archie Burrus.

Sec. 3. A copy of this resolution shall be sent to the family of Archie Burrus.

Sec. 4. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of January, 1973.

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H. R. 117

RESOLUTION 4

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF WILLIAM THOMAS CULPEPPER, JR., FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, William Thomas Culpepper, Jr., son of William Thomas and Alice Butler Culpepper was born in Pasquotank County on July 9, 1916 and died on September 19, 1972 after a lifetime of service to his community, his county and his State; and

Whereas, in the death of William Thomas Culpepper, Jr., the State has suffered the loss of a capable legislator who served his State well as a representative in the General Assembly in 1967, 1969, and 1971; and

Whereas, the late William Thomas Culpepper, Jr. attended the Elizabeth City graded and high schools, North Carolina State University, and Strayers Business College; and

Whereas, William Thomas Culpepper, Jr. was a successful merchant serving as President of Culpepper Hardware Company, Inc. at the time of his death; was President of Avon Fishing Pier, Hatteras Island; Secretary and Treasurer of Wright and Culpepper, Inc.; and a member of the Board of Directors of the North Carolina Merchants Association; and

Whereas, William Thomas Culpepper, Jr. actively participated in the life of his community, county, and area by his service as chairman of the Pasquotank Planning Board, past president of Elizabeth City Chamber of Commerce, past president of Elizabeth City Boys' Club and past president of Elizabeth City High School Parent Teachers Association; and

Whereas, William Thomas Culpepper, Jr. was a member of the Masons, Elks, Redmen, Veterans of Foreign Wars having served with distinction as a corporal in the United States Army from 1943 to 1946, and a Shriner; and

Whereas, he is survived by his beloved wife, the former Miss Shirley Perry and four children, William Thomas Culpepper, III, Sandra Culpepper, Clifford P. Culpepper, and Lynn Culpepper;

Now, therefore be it resolved by the House of Representatives, the Senate concurring:

Section 1. That in the death of William T. Culpepper, Jr. North Carolina and Pasquotank County has lost an able legislator, a dedicated public servant and an outstanding citizen.

Sec. 2. That the General Assembly extends its deepest sympathy to the family of William T. Culpepper, Jr. for the loss of this distinguished member.

Sec. 3. That this resolution shall become a part of the public records of the 1973 Session of the General Assembly of North Carolina and a copy of this resolution shall be duly certified by the Secretary of State and by him transmitted to the family of William Thomas Culpepper, Jr.

Sec. 4. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of January, 1973.

S. R. 132

RESOLUTION 5

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF
LYNDON BAINES JOHNSON, 36th PRESIDENT OF THE UNITED
STATES OF AMERICA.

Whereas, Lyndon Baines Johnson, the 36th president of the United States of America, died at the age of 64 on January 22, 1973, after a long and dedicated life of public service to his home state of Texas and to all the peoples of the United States, it is only fitting that the General Assembly should take note of this service and to a special relationship between former President Johnson and the State of North Carolina.

Whereas, Lyndon Baines Johnson had ancestral ties with North Carolina, through his great-grandfather George Washington Baines; and

Whereas, Lyndon Baines Johnson developed and maintained close personal and public ties with North Carolina members of Congress and other officials, both as a member of Congress and as President of the United States; and

Whereas, the people of North Carolina, being profoundly grateful for the service of his life, and being deeply grieved by the loss of his presence by death, and holding the family of the late President Johnson in sincere affection;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That Lyndon Baines Johnson for over thirty years did serve the peoples of the United States of America, first in the Congress as a Representative and later as a Senator, then as Vice President of the United States, and finally as President. "Lyndon Johnson...was proud of America and had visions of greatness for this country that guided us to great domestic accomplishments and guided him to become a leader of the world," said our Lieutenant Governor. The General Assembly of North Carolina, for itself and on behalf of the government and all the people of North Carolina hereby acknowledges a deep appreciation for the public life and service of Lyndon Baines Johnson.

Lyndon Baines Johnson was born near Stonewall, Texas, on August 27, 1908, to Sam Ealy and Rebekah Johnson, Jr. On that same day his grandfather, Sam Ealy Johnson, Sr., is said to have ridden around Johnson City on horseback shouting, "A United States Senator was born this morning - my grandson." Forty years later this prophetic statement came true. Political involvement came natural for the young Johnson for both his father and grandfather had made names for themselves in the Texas Legislature. From them he acquired a liberal political philosophy which was strengthened by his deep Christian heritage and an abiding respect for the value of education learned from his mother. In 1930 he graduated from a small Texas college where he had become well known as a debator and as editor of the school paper. His adventures into politics began the following year when Representative-elect Richard M. Kleburg took him to Washington as a legislative assistant. Six years later he was elected to the United States House of Representatives and quickly gained the reputation of being a strong supporter of President Roosevelt's programs. In 1941 he made an unsuccessful attempt at being elected to the United States Senate - it was the last time he was ever defeated by the public electorate. He returned to the House and in 1948 was elected to the Senate. In spite of his varying political views, he won the respect of his fellow Senators from the South and a place

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among the senatorial elite. In 1960 he was one of his party's nominees for president, but lost out to the young John F. Kennedy. His interest in social and educational legislation led to his being selected by Kennedy as his vice presidential running mate. When tragedy struck in Dallas on November 22, 1963, Lyndon Johnson became the 36th President of the United States. The following year he was elected to his own term by the greatest vote majority ever accorded a presidential candidate to that time. It was under his guidance that some of the most far-reaching social legislation in American history was enacted most notably the Civil Rights Act of 1964.

President Johnson had a special tie to North Carolina that few people knew about. In a speech given in Raleigh on October 6, 1964, many thought that a reference to a great-grandfather from North Carolina was a political ploy to obtain support for his candidacy - this was not the case. On December 29, 1809, George Washington Baines was born to Thomas Baines of Creecy's District in Chowan County (some say it was Perquimans County). In 1817 the Thomas Baines family moved to Georgia and then to Alabama. Following in his father's footsteps, George Washington Baines became a preacher and started several churches in Arkansas and Louisiana. In 1850 he moved to Texas and ten years later was elected president of Baylor University. His son Joseph Wilson Baines later married Ruth Huffman and their daughter Rebekah was the mother of Lyndon Baines Johnson.

However, President Johnson had more than an ancestral relationship to North Carolina. During his many years of service in Washington he became friends with many of North Carolina's political leaders. Senators Sam Ervin and B. Everett Jordan were his close friends during his years in the Senate, and former Governor of North Carolina Luther Hodges was Secretary of Commerce while Johnson was Vice President and during the first year of his Presidency. Johnson's deep appreciation for education and his desire to see the less fortunate given an opportunity in life, brought him into direct contact with events in North Carolina at that time. A large portion of his Anti-Poverty Program was aimed at improving conditions in Appalachia. He was a friend of the farmer, especially the small family farmer in whom he saw reflections of his own childhood. On more than one occasion he praised the efforts of the small farmer and encouraged them not to give up. "We are not going to plow under the family farm," he told one audience. Lyndon Baines Johnson was truly a "favorite son" of North Carolina.

The death of Lyndon Baines Johnson is a great loss to this State and to the Nation. Few men have given so thoroughly of their time and energy to public service as did he. He was an American first and foremost, and everything he did was done with the conviction that it was in the best interest of the United States. During the latter years of his administration, the dark clouds of war in Southeast Asia overshadowed his real accomplishments and lowered his standing in the public eye. "Johnson was not a revered theorist of government or the proponent of great change and innovation. Nor was he a polished orator, a magnetic personality, a powerful factional leader," but he was one of the great human figures in America. Only time will determine his true place in American History, but in the words of Howard K. Smith, "I believe that a longer perspective will place Lyndon B. Johnson very high on our scale of Presidents." But, there can be no doubt, he was as he said in his own words, "...a free man, an American, a public servant."

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Sec. 2. That the North Carolina General Assembly expresses its appreciation for the public services rendered by Lyndon Baines Johnson, services which have contributed to the betterment of the State of North Carolina, and that the General Assembly further expresses its sincere sense of loss on the occasion of the death of Lyndon Baines Johnson.

Sec. 3. That the General Assembly expresses to the family of the late President Johnson its most profound sympathy and condolences, and assures the family of its continuing affection.

Sec. 4. That this resolution shall become part of the public records of the 1973 Session of the General Assembly of North Carolina, and that the Secretary of State shall cause certified copies of this resolution to be transmitted to Mrs. Johnson and to the immediate family of the late President Johnson.

Sec. 5. That this resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of February, 1973.

H. R. 173

RESOLUTION 6

A JOINT RESOLUTION COMMENDING THE DURHAM JAYCEES FOR THEIR ANNUAL SPONSORSHIP OF THE NORTH CAROLINA JUNIOR MISS PAGEANT.

Whereas, the Durham Jaycees do, and have annually, sponsored the North Carolina Junior Miss Pageant; and

Whereas, it is the aim and goal of the North Carolina Junior Miss Pageant to promote and reward excellence in senior girls of the high schools of the State; and

Whereas, the North Carolina Junior Miss Pageant is to be held in Durham, North Carolina, during the week of January 28 through February 3, 1973; and

Whereas, the aims and goals of the Durham Jaycees in sponsoring the North Carolina Junior Miss Pageant are deserving of commendation;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the Durham Jaycees are to be highly commended for their sponsorship of the North Carolina Junior Miss Pageant.

Sec. 2. The General Assembly of North Carolina extends its best wishes to the Jaycees and to the contestants involved in the 1973 Junior Miss Pageant.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of February, 1973.

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S. R. 133

RESOLUTION 7

A JOINT RESOLUTION EXPRESSING THE GRATITUDE OF THE GENERAL ASSEMBLY FOR THE END OF THE AMERICAN INVOLVEMENT IN THE CONFLICT IN VIETNAM.

Whereas, a cease-fire in Vietnam became effective at 7:00 p.m. Eastern Standard Time on January 27, 1973; and

Whereas, this General Assembly recognizes that our military commitment in South Vietnam, as unpopular and distasteful as it has been, was brought on by commitments to an ally whose call for aid we did not deny; and

Whereas, the people of this State have in this war, as they have throughout our history, upon the call of duty given their own to this conflict beginning with the first dispatch of advisors and continuing to the present date; and

Whereas, this General Assembly is grateful for the end of this longest military conflict in American history, in which two and a half million of our countrymen have served and in which three hundred and fifty thousand have died or suffered wounds; and is especially grateful for the promised release of the more than five hundred and eighty-seven captives held by the Viet Cong and the Government of North Vietnam; and

Whereas, we are grateful to the President of the United States for his determination to achieve a just and lasting peace; and

Whereas, we look forward to the return of our loved ones who have been held prisoners and we pledge that our veterans not only have jobs but welcomed places in our society; and

Whereas, we are grateful to the millions of our young people and their families who have made such great personal sacrifices for us and in our name; and

Whereas, we give thanks to Almighty God for this cease-fire.

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. We join our President in his prayer that this peace will not only last but heal. We pledge our best efforts to see that the wounds and divisions here at home as well as in Asia are healed and reconciled. We respect and support our President's pledge to "bring us together".

Sec. 2. We salute our President, the men and women of our armed forces, our allies, and those at home who made sacrifices, as did everyone who loves peace, at the close of this conflict and this chapter in our history, "One of the most selfless enterprises in the history of nations".

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of February, 1973.

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H. R. 118

RESOLUTION 8

A JOINT RESOLUTION HONORING THE SOUND OF SINGING YOUTH.

Whereas, the Sound of Singing Youth, a talented group of some one hundred young people from the Hendersonville, North Carolina, area, have presented numerous singing programs throughout this State and Nation dedicated to God and Country; and

Whereas, the Sound of Singing Youth during June of 1972 conducted a 10-day tour to Connecticut and Washington, D. C., highlighted by singing on the steps of the House wing of the United States Capitol; and

Whereas, the Sound of Singing Youth recently most graciously and worthily performed on the night of the Governor's Inauguration;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Sound of Singing Youth is hereby commended on the numerous singing programs they have presented in such a religious and patriotic manner, and the many hours of hard work and dedication in preparing for these events.

Sec. 2. The Sound of Singing Youth is hereby specifically commended for their presentations during the 10-day tour to Connecticut and Washington, D. C., and on the night of the Governor's Inauguration.

Sec. 3. The North Carolina General Assembly recognizes and expresses its appreciation to the Sound of Singing Youth as goodwill ambassadors on behalf of the State of North Carolina.

Sec. 4. A copy of this resolution shall be certified by the Secretary of State and forwarded to the Sound of Singing Youth, in Hendersonville, North Carolina.

Sec. 5. This resolution shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 5th day of February, 1973.

H. R. 119

RESOLUTION 9

A JOINT RESOLUTION CONCERNING THE LIFE, MEMORY AND ACHIEVEMENTS OF LAWRENCE H. WALLACE, A FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, the General Assembly of North Carolina has been profoundly grieved upon learning of the death of the Honorable Lawrence H. Wallace of Johnston County at the age of 66 years; and

Whereas, the Honorable Lawrence H. Wallace was one of Johnston County's most prominent citizens and was a member of the North Carolina General Assembly serving in both the House and the Senate from 1939 through 1947, and while a member worked to strengthen the agricultural economy and to raise the standards of living in rural areas; who worked to improve public education in all areas of the State by upgrading the teaching profession; and who supported legislation aimed at raising health standards in North Carolina by helping to pass legislation that lead to the establishment of Johnston Memorial Hospital and many other public hospitals in North Carolina that enabled communities to attract desperately needed medical personnel; and

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Whereas, while in the legislature, the Honorable Lawrence H. Wallace became known as a courageous lawmaker, not afraid to go against the tide of popular opinion in the defense of vital principles by championing the rights of labor and the rights of public employees to be secure from arbitrary dismissal for unsubstantiated causes and by being the only Senator who spoke against a House-passed bill aimed at “un-American activities” which would deny suspected offenders of a hearing or the right to confront their accusers; and

Whereas, the Honorable Lawrence H. Wallace in Johnston County served on numerous boards and committees and while serving became a leader in the development of the public library system by being a trustee in the Old Smithfield Public Library and the present Public Library of Johnston County in Smithfield; and

Whereas, the Honorable Lawrence H. Wallace graduated from the University of North Carolina School of Law at Chapel Hill in 1930 and established a practice of law in Smithfield after graduation; and

Whereas, the Honorable Lawrence H. Wallace played a prominent role in the development of the Smithfield tobacco market into a stable and popular market by serving as the secretary of the Smithfield Chamber of Commerce, an organization that helped to boost the tobacco market and promote other economic enterprises in Smithfield and all Johnston County; by serving as head of the Smithfield Warehouse Association and the Smithfield Tobacco Board of Trade; by serving as president of the Eastern Carolina Warehouse Association; by being president of the Bright Belt Warehouse Association, a trade organization serving most of the states in the flue-cured tobacco region; and by serving on the Flue-Cured Tobacco Market Committee of the State of North Carolina as secretary; and

Whereas, the General Assembly of North Carolina wishes to make record of its appreciation to his life and accomplishments and its sincere sorrow at his death;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That in the death of the Honorable Lawrence H. Wallace, the State of North Carolina, Johnston County, and Smithfield have lost an outstanding public servant and an outstanding useful and loyal citizen.

Sec. 2. That the General Assembly does hereby express its appreciation and gratitude for the life and career and contributions made by the Honorable Lawrence H. Wallace.

Sec. 3. That the General Assembly extends its sincere sympathy to the family of the Honorable Lawrence H. Wallace in the loss of their distinguished and outstanding member.

Sec. 4. That this resolution shall be a part of the public records of this session of the General Assembly and that a copy shall be duly certified by the Secretary of State and transmitted to the family of the Honorable Lawrence H. Wallace.

Sec. 5. That this resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of February, 1973.

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H. R. 270

RESOLUTION 10

A JOINT RESOLUTION HONORING THE CARY HIGH SCHOOL MARCHING BAND.

Whereas, the Cary High School Marching Band, consisting of 127 members, has for the past several years under the direction of its Director, Jimmy C. Burns, Jr., been molded into a fine precision team; and

Whereas, the Cary High School Marching Band has during said period participated and competed in numerous state and national band competitions; and

Whereas, as a result of the untiring efforts, energies and diligent practice, the said band is proficient and expert as musicians and as a marching band; and

Whereas, the said band as a recognition for being proficient and expert in marching and music, have marched in numerous Christmas parades, homecoming parades for universities, North Carolina State Fair opening ceremonies, half time entertainment for college football games, North-South Shrine Bowl Game, openings for new businesses and concerts for various organizations; and

Whereas, the said band won first place in the Blueberry Festival held in Elizabethtown, North Carolina; and

Whereas, the said band placed first in the annual Sun Fun Festival Parade in Myrtle Beach, South Carolina, out of 36 bands from eight states; and

Whereas, the said band on January 1, 1973, was the first and only band in North Carolina to represent the State at the Tournament of Roses Parade in Pasadena, California, in the 84 years since the tournament was started; and

Whereas, the said band was the first North Carolina band to participate in the nationally televised NBC Sounds of '73; and

Whereas, the said band was the Governor's escort band for the 1973 North Carolina Inaugural Parade; and

Whereas, the said band was selected as one of the 10 honorary bands that escorted dignitaries into the 1973 Presidential Inaugural Parade; and

Whereas, the said band was selected and listed as one of the top 20 bands in North America in 1972 by "Ruffles and Flourishes", the National Band Magazine; and

Whereas, the said band has performed shows at Disneyland, Walt Disney World, and Marineland of the Pacific; and

Whereas, the said band has been invited to participate in the National Band Festival in Philadelphia, Pennsylvania; and

Whereas, the said band has been invited to the National Education Scholarship Foundation in Vienna, Austria, in July of 1973; and

Whereas, the continuing devotion to excellence by the band has contributed and will contribute much to the cultural enrichment and musical heritage of this State; and

Whereas, the excellence of the band reflects the untiring efforts of the teaching and directional staff and particularly the unstinting devotion and immeasurable inspiration of its Director; and

Whereas, let it be known that the 1973 General Assembly is proud of the

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Cary High School Marching Band and appreciates the honor and publicity that it has brought to the great State of North Carolina.

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly recognizes and is proud of the Cary High School Marching Band and expresses its appreciation for the achievements and contributions that this band has made and the honor it has brought to the State of North Carolina.

Sec. 2. That a copy of this resolution be duly certified by the Secretary of State and by him transmitted to Jimmy C. Burns, Jr., Director, on behalf of the Cary High School Marching Band.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of February, 1973.

H. R. 281

RESOLUTION 11

A JOINT RESOLUTION DESIGNATING FEBRUARY 9, 1973, AS JAYCEE DAY IN THE GENERAL ASSEMBLY.

Whereas, February 9, 1973, is hereby designated Jaycee Day in the General Assembly; and

Whereas, designated leaders of the North Carolina Jaycees, both past and present, including the State President, Mr. Fred Morrison, and many other officers and members of the North Carolina Jaycees are visiting in the General Assembly; and

Whereas, there are currently about 11,100 members of the Jaycees in over 250 Chapters in North Carolina; and

Whereas, these Chapters have been honored in numerous ways in recent years including currently being in the top 10 of the Jaycee state organizations in the United States as evaluated by the United States Jaycees; and

Whereas, the North Carolina Jaycees have always attempted to make North Carolina a safe and beautiful place in which to live, work and visit; and

Whereas, the North Carolina Jaycees in the area of prison reform have formed 40 Jaycee Chapters in correctional units across North Carolina involving more than 800 inmates, this being more than any other state in the Nation; and

Whereas, they have an active program in the field of public education seeking to assist local school officials in 250 communities; and

Whereas, the month of March will be designated as Drug Abuse Month across North Carolina;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That this General Assembly does hereby welcome our Jaycee guests today and proclaim this date as Jaycee Day in the General Assembly and is happy to congratulate the North Carolina Jaycees for all their many outstanding accomplishments.

Sec. 2. That this General Assembly wishes for the North Carolina Jaycees many more years of good and faithful service to the people of North Carolina through all their local Chapters.

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Sec. 3. That a copy of this resolution be forwarded to the North Carolina Jaycees at their headquarters in Asheboro, North Carolina.

Sec. 4. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of February, 1973.

H. R. 215

RESOLUTION 12

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JAMES EUGENE SNYDER, FORMER MEMBER OF THE NORTH CAROLINA GENERAL ASSEMBLY.

Whereas, James Eugene Snyder, who served as a distinguished representative from Davidson County, died the 28th day of November, 1971, at the age of 60; and

Whereas, in the passing of James Eugene Snyder, North Carolina and Davidson County lost a most beloved and respected citizen; and

Whereas, James Eugene Snyder was a devoted member of the First Baptist Church of Lexington, where he served as a Sunday School teacher and Deacon; and

Whereas, James Eugene Snyder was a former member of the State Board of Elections, a former member of the Executive Committees of both the State and Davidson County Republican Parties, a former member of the State Courts Commission, and a member and former President of the Lexington Civitan Club; and

Whereas, James Eugene Snyder served his county, his state and his nation as a member of the Davidson County Selective Service Board during World War II; and

Whereas, he is survived by his wife, his daughter, and his son; and

Whereas, the General Assembly desires to honor the memory of James Eugene Snyder and to extend its sympathy to the surviving members of his family;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly recognizes and expresses its appreciation for the many years of selfless public service rendered by James Eugene Snyder to Davidson County, to the State of North Carolina and to the Nation, with full knowledge of the valuable contributions that he made in all aspects of his public life, with a sense of deep loss at his passing.

Sec. 2. The General Assembly extends its sincere sympathy to the family of James Eugene Snyder.

Sec. 3. A copy of this resolution shall be sent to the family of James Eugene Snyder.

Sec. 4. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of February, 1973.

H. R. 282

RESOLUTION 13

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF CLARENCE OSBORNE RIDINGS, FORMER MEMBER OF THE GENERAL ASSEMBLY AND DISTINGUISHED CITIZEN OF NORTH CAROLINA.

Whereas, Clarence Osborne Ridings, died on January 25, 1973; and

Whereas, he was born in Green Creek Township, Polk County, North Carolina, on November 9, 1892, and received his education at Green River Graded School, and Fruitland Institute, where he graduated in 1916, and Wake Forest College School of Law; and

Whereas, he was married to Elizabeth Maude Carswell of Forest City, North Carolina, on April 30, 1925, and was the father of Helen Ridings McKinney and the grandfather of Ronald Ridings McKinney; and

Whereas, he was employed as a teacher at Green River Graded School from 1917 until 1918, was admitted to the bar in 1922 and engaged in the practice of law until 1968; and

Whereas, in the death of Clarence Osborne Ridings, the State has lost a highly capable attorney who devoted his time, energy and talent to the betterment of the State representing Polk County in the House of Representatives in the regular and special Sessions of 1921 and serving in the North Carolina Senate from 1965 to 1967; and

Whereas, he was appointed District Solicitor of the Eighteenth Judicial District on June 6, 1934, by Governor J.C.B. Ehringhaus to succeed the Honorable J. Will Pless who was appointed Superior Court Judge and was elected District Solicitor in the General Election of 1934, serving continuously until the end of 1958; and

Whereas, he served as County Attorney of Rutherford County from 1932 until 1933 and as Town Attorney for the Town of Forest City from 1945 until 1946; and

Whereas, in addition to his service in State and Local Government, he actively participated in the life of his community, having been affiliated with the First Baptist Church of Forest City and having taught Sunday School for twenty years, having organized and served as first President of the Wildlife Club in Rutherford County, having served as Attorney for the Rutherford County Electric Membership Corporation for 25 years, and having been a loyal member of the Masonic Order; and

Whereas, he was a member of the Rutherford County Bar Association of which he was President and the District Bar Association of which he had also held the office of President; and

Whereas, he served his country during World War II in the United States Army; and

Whereas, he was a loyal member of the Democratic Party serving as Chairman of the Rutherford County Democratic Executive Committee from 1928 to 1930, and serving for many years as a member of the State Democratic Executive Committee; and

Whereas, the General Assembly desires to honor the memory of Clarence

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Osborne Ridings and express its sympathy to the surviving members of his family;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That in the death of Clarence Osborne Ridings, the State of North Carolina has lost one of its most able and conscientious citizens.

Sec. 2. That the General Assembly recognizes and expresses its appreciation for the public services rendered by Clarence Osborne Ridings which have contributed to the betterment of the State of North Carolina.

Sec. 3. That the General Assembly extends its sincerest sympathy to the family of Clarence Osborne Ridings in the loss of one of its most distinguished and outstanding members.

Sec. 4. That this act shall become a part of the public records of this Session of the General Assembly and that a copy duly certified by the Secretary of State shall be transmitted to the family of Clarence Osborne Ridings.

Sec. 5. That this resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of February, 1973.

H. R. 279

RESOLUTION 14

A JOINT RESOLUTION COMMEMORATING THE LIFE AND MEMORY OF ADAM J. WHITLEY, JR., FORMER MEMBER OF THE SENATE.

Whereas, Adam J. Whitley, Jr., was born in Johnston County on April 14, 1894, and died at the age of 78 on May 19, 1972, after a lifetime of unselfish and distinguished service to the State of North Carolina and his native County of Johnston; and

Whereas, Mr. Whitley distinguished himself in military service in World War I and thereafter in veterans' affairs as a past commander of the American Legion in Smithfield; and

Whereas, Mr. Whitley's great interest in farming was manifested in his membership in Johnston Livestock Mutual and his past presidency of Johnston County Farm Bureau; and

Whereas, Mr. Whitley also served as a director and former president of the Federal Land Bank Association of Smithfield, as well as a member and past chairman of the Federal Land Bank Association's district advisory committee; and

Whereas, Mr. Whitley was active in civic affairs as a former chairman of the Johnston County Chapter of the American Red Cross, a Mason, a Shriner, a member of the Smithfield Rotary Club, Junior Order, Johnston County Wildlife Club, and Johnston County Historical Society; and

Whereas, Mr. Whitley served his State and his community as State Senator from 1948 until 1964; and as a member of the Governor's Youth Service Committee, the Agricultural Foundation and the Agricultural Advisory Council of North Carolina State University; and

Whereas, Mr. Whitley was active in the political affairs of his County as Chairman of the Johnston County Democratic Executive Committee and as a member of the North Carolina Democratic Executive Committee; and

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Whereas, Mr. Whitley's distinguished service to the community was evidenced by his position as a County Commissioner at the time of his death; and

Whereas, Mr. Whitley was involved in his community's religious life as a moderator of the Johnston Baptist Association and as a former chairman of the Board of Deacons of Pisgah Baptist Church;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That in the death of Adam J. Whitley, Jr., Johnston County and the State of North Carolina have lost an outstanding public servant and a loyal citizen.

Sec. 2. That the General Assembly does hereby express its appreciation of Adam J. Whitley, Jr., as a devoted public servant and citizen, and does hereby extend its sympathy to his family.

Sec. 3. That a copy of this resolution shall be sent to the family of Adam J. Whitley, Jr.

Sec. 4. That this resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of February, 1973.

H. R. 120

RESOLUTION 15

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF ITIMOUS THADDEUS VALENTINE, SR.

Whereas, Itimous Thaddeus Valentine, Sr., served his nation as a Private in World War I, and as a Colonel in the United States Army, Judge Advocate Corps, during World War II; and

Whereas, Itimous Thaddeus Valentine, Sr., was active in the practice of law in Nash County for over fifty years; and

Whereas, Itimous Thaddeus Valentine, Sr., served as Prosecuting Attorney of the Nash County Recorders Court and as a member of the Board of Aldermen of the Town of Nashville, and as a member of the State Board of Public Welfare; and

Whereas, Itimous Thaddeus Valentine, Sr., served as an Associate Justice of the Supreme Court of the State of North Carolina; and

Whereas, Itimous Thaddeus Valentine, Sr., was an able practitioner of his chosen profession and an able servant of the people of the county, both in war and in peace; and

Whereas, Itimous Thaddeus Valentine, Sr., walked among the leaders of our State, but never lost touch with the common people;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly of North Carolina wishes to record its appreciation for the many years of able service of Itimous Thaddeus Valentine, Sr., as a soldier, a citizen and a public official of this State.

Sec. 2. The General Assembly extends its sympathy to the family of Itimous Thaddeus Valentine, Sr., for the loss of its loved one.

Sec. 3. That this resolution shall become a part of the public record of the 1973 Session of the General Assembly of North Carolina and a copy shall be

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duly certified by the Secretary of State and forthwith transmitted to the family of Itimous Thaddeus Valentine, Sr.

Sec. 4. This resolution shall be effective upon its adoption.

In the General Assembly read three times and ratified, this the 15th day of February, 1973.

H. R. 157

RESOLUTION 16

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF HUBERT E. MAY.

Whereas, Hubert E. May, after graduation from Wake Forest College School of Law, became a practicing attorney in Nashville, North Carolina; and

Whereas, Hubert E. May served as Prosecuting Attorney of the Nash County Records Court and as Solicitor of the Seventh Judicial District; and

Whereas, Hubert E. May rendered distinguished service to this country during World War II, being discharged as a Lieutenant Colonel in the U. S. Army, Judge Advocate Corps; and

Whereas, Hubert E. May devoted over 20 years of service to God as regular teacher of the Men's Bible Class of the Nashville United Methodist Church; and

Whereas, Hubert E. May devoted his life to God, to his family, to his country, to the community in which he lived and to the State of North Carolina; and

Whereas, Hubert E. May died while serving his State as an able Judge of the Superior Courts of North Carolina:

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly of North Carolina wishes to record its appreciation for the life of Hubert E. May, an able, useful and loyal servant of God, his State and his country.

Sec. 2. That the General Assembly extends its sympathy to the family of Hubert E. May for the loss of their loved one.

Sec. 3. That this resolution shall become a part of the public records of the 1973 Session of the General Assembly of North Carolina, and a copy shall be duly certified by the Secretary of State and forthwith transmitted to the family of Hubert E. May.

Sec. 4. This resolution shall be effective upon its adoption.

In the General Assembly read three times and ratified, this the 15th day of February, 1973.

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RESOLUTION 17

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JAMES B. VOGLER, FORMER LEGISLATOR AND OUTSTANDING CITIZEN FROM MECKLENBURG COUNTY.

Whereas, James B. Vogler was born in Charlotte, North Carolina, on April 13, 1895, son of the late James A. and Susan Caroline (Alexander) Vogler, and he was educated in the Charlotte Public Schools and Baird's Military Institute.

Whereas, James B. Vogler served as Secretary for the North Carolina Food and Grocery Distributors Code Authority during the N. R. A., organizing North Carolina under the National Recovery Administration for the food and grocery industry; he assisted in the establishment in North Carolina of the U. S. A. Food Stamp Program during the depression of 1929; and he served as Director of the War Production Board Citizens Salvage Activities in North Carolina from 1942 through 1944.

Whereas, James B. Vogler served as President of the following: Asparagus Club International, National Association of Food Trade Executives, Fair Trade Council of the City of Charlotte and Mecklenburg County, Southeastern Food Trades Executives Association, and Charlotte Chapter of American War Dads.

Whereas, James B. Vogler served as a member of the House of Representatives of the General Assembly of North Carolina for more years than any other person in the State's history during the following sessions: 1936 Special 1937 1938 Special, 1939, 1941, 1945, 1947, 1951, 1955, 1956 Special, 1957, 1961, 1963, 1963 Special, 1965, 1965 Special, 1966 Special, 1967, 1969, and 1971.

Whereas, James B. Vogler was recently honored by the Mecklenburg County Commissioners, the City of Charlotte, and the Mecklenburg County State Legislative Delegation when they jointly commended him for his "invaluable and dedicated services to the citizens and residents of Mecklenburg County, North Carolina, through his services as a member of the North Carolina General Assembly," and they provided for the dedication of a plaque commemorating his "outstanding leadership and service".

Whereas, James B. Vogler died on December 15, 1972, and he is survived by his loving wife Lillian Raymelle (Ketchie) Vogler and three children, Colonel James B. Vogler, Jr., USAF, John T. Vogler, and Mrs. Louis H. Layne.

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. In the death of James B. Vogler, the State of North Carolina and Mecklenburg County have lost a distinguished and able public servant and citizen.

Sec. 2. The General Assembly of North Carolina hereby expresses its sympathy to the family of James B. Vogler.

Sec. 3. A copy of this resolution shall be sent to the family of James B. Vogler by the Secretary of State.

Sec. 4. This resolution shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 15th day of February, 1973.

H. R. 216

RESOLUTION 18

A JOINT RESOLUTION COMMENDING THE COACHES AND PLAYERS OF RICHMOND COUNTY AMERICAN LEGION BASEBALL TEAM OF HAMLET POST NO. 49.

Whereas, Richmond County American Legion Baseball Team of Hamlet Post No. 49 during the 1972 season won thirty-five games and lost only six; and

Whereas, said American Legion Baseball Team won the State Championship of North Carolina in American Legion Baseball during the summer of 1972 and advanced to the Southeastern Regionals at West Palm Beach, Florida, where it further distinguished itself with excellent play and was among the top 16 American Legion Baseball Teams in the nation; and

Whereas, in establishing these records said Baseball Team has demonstrated that it is a Team not only of unusual ability but a Team of outstanding sportsmanship; and

Whereas, these accomplishments have brought honor to the State of North Carolina and are sources of pride to the people of the State of North Carolina and are worthy of the highest commendation;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That Richmond County American Legion Baseball Team of Hamlet Post No. 49 in general and in particular, its coaches, Head Coach George Whitfield, and Assistant Coach Hal Stewart, Athletic Officer, Charles T. Howe, Team Representative Tyree Brown, Team Statistician Bruce Hardin, and the members of the Team composed of Paul Faulk, Chuck McLean, Chuck White, Freddy Brown, Don DeMay, Ken Kindley, Gerald Dutton, Charlie Wall, Randy Monroe, Louis Breeden, Mike Hopkins, Drew Morse, David Roper, Eric Freeman, Ben Howe, and Robert Robinson, be commended for their splendid accomplishments in winning the State Championship of North Carolina in American Legion Baseball and advancing to the Southeastern Regionals at West Palm Beach, Florida, where they further distinguished themselves and the State of North Carolina by their excellent play and sportsmanship during the 1972 season.

Sec. 2. That a copy of this resolution shall be duly certified by the Secretary of State and forthwith transmitted by him to the Commander of Hamlet American Legion Post No. 49 of Richmond County, North Carolina, and those listed in Section 1 of this resolution.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of February, 1973.

H. R. 350

RESOLUTION 19

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF MRS. GILES WILLIAM COVER, FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, Mrs. Giles William Cover, of Andrews, North Carolina, a former distinguished Democratic Representative from Cherokee County in the General Assembly, died in the hospital in Sylva, North Carolina, at the age of eighty years, on the 1st day of August, 1971; and

Whereas, in the passing of Mrs. Giles William Cover, North Carolina and Cherokee County lost one of its most beloved and respected citizens; and

Whereas, Mrs. Giles William Cover served with honor and distinction as a Representative from Cherokee County in the House in 1943, 1945, and 1959, and was the first woman to ever serve on the State Stream Sanitation Commission; and

Whereas, Mrs. Giles William Cover, one of the first women active in North Carolina local and State government, gave of her time and unusual talents as she served faithfully, diligently and effectively in so many organizations and public posts of honor and trust in Cherokee County, the State and the Nation, among them being a long time member of the National Organization of Women's Legislators, being elected National Historian for the organization in November, 1970, served for a number of years as chairman of the Cherokee County Board of Education and a member of the Andrews School Board, was a member of the Board of Trustees of Western Carolina University at Cullowhee for twelve years, an active member of Western North Carolina Associated Communities for many years, a member of the First United Methodist Church in Murphy, served as organist of the Lutheran Church in Andrews, and also as President of the Valley River Garden Club for 1971; and

Whereas, Mrs. Giles William Cover, a native of Murphy, was the daughter of the late Mark and Ella Brittain, and granddaughter of the late Dr. Benjamin and Elizabeth Mayfield, and was related to Civil War Governor Zebulon Baird Vance, through her father's family; and

Whereas, she was the widow of Giles William Cover, Andrews industrialist, who died in 1950, and is survived by two daughters, Mrs. Jane Orr of Cullowhee and Mrs. Eleanor Ennis of Andrews, a brother, two sisters, three grandchildren, and two great-grandchildren; and

Whereas, the General Assembly desires to honor the memory of Mrs. Giles William Cover and express its sympathy to the surviving members of her family;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly recognizes and expresses its appreciation for the public service rendered by Mrs. Giles William Cover, with full knowledge that for many years she rendered able and valuable services to her native county and to the State of North Carolina, with a devotion to duty and outstanding character of the highest degree, and with kindness and courtesy to all who had the pleasure of knowing her in her personal, social, and political life.

Sec. 2. This resolution shall become a part of the public records of the 1973 General Assembly of North Carolina, and the Secretary of State shall

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cause a certified copy to be transmitted to Mrs. Jane Orr of Cullowhee and Mrs. Eleanor Ennis of Andrews, her daughters.

Sec. 3. This resolution shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 16th day of February, 1973.

H. R. 383

RESOLUTION 20

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF
ELVIN OVERTON FALKNER, FORMER MEMBER OF THE NORTH
CAROLINA GENERAL ASSEMBLY.

Whereas, Elvin Overton Falkner, a distinguished member of the North Carolina House of Representatives of the 1952 Session from Vance County, North Carolina, died in Henderson, North Carolina, on July 14, 1971; and

Whereas, Elvin Overton Falkner ably served the State of North Carolina and Vance County as a member of the House of Representatives; and Trustee of the Teachers and State Employees Retirement System from 1965 to 1969, and was appointed by Judge R. Hunt Parker as Clerk of the Superior Court of Vance County, North Carolina and served from January, 1934 until 1950, completing four terms without opposition within his party or any other party; and

Whereas, Elvin Overton Falkner obtained prominence as a civic leader in Vance County where he was born on February 15, 1903. He served as Coroner of Vance County from 1932 to 1934, Chairman of the Committee to appoint a draft board in Vance County, Chairman of Vance County Community Chest in 1940, served on the Executive Committee of Henderson Forum Council, served on Central Directing Committee United Service Organization, was a Director in the Henderson Chamber of Commerce and was a member of the Home Guard Company, Director in the Industrial Bank, Director in the Commercial and Industrial Bank and Director in the Home Savings & Loan Association, founded Falkner Building Supply, Inc. in 1945 and served actively as owner and President until his death; and

Whereas, Elvin Overton Falkner was a member of the Methodist Protestant Church until its merger with the First Methodist Church. He was superintendent of the Sunday School, Treasurer of the Methodist Protestant Church, member of the Board of Stewards in both the Methodist Protestant Church and First Methodist Church and a Trustee of the First Methodist Church from 1942 until his death, and was President of the Men's Bible Class of the First Methodist Church; and

Whereas, he was a member of the Order of Red Men, Patriotic Order of the Sons of America and its President during the year 1934, President of the Kiwanis Club of Henderson during the year 1942, Vice-President of North Carolina Clerks Association in 1938 and President in 1939, a member of the Sudan Temple A.A.O.N.M.S. and a charter member of the Henderson Lodge 1681 of the Benevolent and Protective Order of the Elks; and

Whereas, he is survived by his wife, the former Ruby Woodlief, to whom he was married in the year 1923, and a daughter, Minerva Falkner McGregor, and a son, John H. Falkner, together with four grandchildren; and

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Whereas, the 1973 General Assembly wishes to express its sorrow at the loss of an outstanding citizen of the State of North Carolina and wishes to express its sympathy to the family of Elvin Overton Falkner.

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly hereby expresses its sense of loss in the death of Elvin Overton Falkner, an outstanding citizen and former member of the House of Representatives and conveys its sympathy to the family of Mr. Falkner.

Sec. 2. A copy of this resolution shall be sent to the family of Elvin Overton Falkner.

Sec. 3. This resolution shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 19th day of February, 1973.

H. R. 368

RESOLUTION 21

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF RICHARD S. JONES, SR., FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, Richard S. Jones, Sr., a former distinguished Senator from Macon County in the General Assembly, died in his hometown of Franklin, Macon County, North Carolina, on the 12th day of April, 1972; and

Whereas, in the passing of Richard S. Jones, Sr., North Carolina and Macon County lost one of its most beloved and respected citizens; and

Whereas, Richard S. Jones, Sr., served with honor and distinction in the Senate representing the thirtieth district in 1951; and

Whereas, Richard S. Jones, Sr., was a member of an outstanding Western North Carolina legal family, being the youngest son of Judge George Andrew Jones and Harriet Sloan Jones, prominent Franklin citizens, and was senior member of the law firm of Jones, Jones and Key at the time of his death; and

Whereas, Richard S. Jones, Sr., served with great efficiency and dedication as Assistant Secretary of State for a number of years, as Secretary-Treasurer and President of the Macon County Building and Loan Association, as Secretary and Treasurer and a charter member of the Franklin Rotary Club, as attorney for the Town of Franklin, the County of Macon, the Town of Highlands, and the Southern Railway, as a director and legal counsel for the First Union National Bank of Franklin, having served in the same capacity for the old Bank of Franklin, and as trustee and steward of the First United Methodist Church; and

Whereas, he is survived by his widow, Mrs. Lois Halman Jones, a son, Richard S. Jones, Jr., a daughter, Mrs. Margaret Jones Henry, a brother, a sister, and five grandchildren; and

Whereas, the General Assembly desires to honor the memory of Richard S. Jones, Sr., and expresses its sympathy to the surviving members of his family;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly recognizes and expresses its appreciation for the public service rendered by Richard S. Jones, Sr., with full knowledge that for many years he rendered able and valuable services in his

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native county and to the State of North Carolina, with a devotion to duty and outstanding character of the highest degree, and with kindness and courtesy to all who had the pleasure of knowing him in his personal, business, social, and political life.

Sec. 2. That this resolution shall become a part of the public records of the 1973 General Assembly of North Carolina, and the Secretary of State shall cause a certified copy to be transmitted to Mrs. Lois Halman Jones, his widow, and to Richard S. Jones, Jr., and Mrs. Margaret Jones Henry, both of Franklin, his son and daughter.

Sec. 3. This resolution shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 21st day of February, 1973.

H. R. 384

RESOLUTION 22

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF MRS. TRESSIE PIERCE BOYD, A FORMER MEMBER OF THE HOUSE OF REPRESENTATIVES.

Whereas, Mrs. Tressie Pierce Boyd was born in Alexander County, North Carolina, and died a resident of Taylorsville, North Carolina, on February 13, 1973, having achieved the age of 79; and

Whereas, she was awarded a degree in law from the University of South Carolina and served as a secretary to a law firm in Columbia, South Carolina; and

Whereas, she then practiced law in Columbia, South Carolina, and was admitted to the North Carolina Bar on September 17, 1930, and thereafter practiced law in Taylorsville, North Carolina; and

Whereas, Mrs. Boyd distinguished herself through her service to her community, State and nation in that she served as tax supervisor to Alexander County in 1948 and 1949 and was named President of the Alexander County Historical Association and President of the Taylorsville Woman's Club and served on the Taylorsville Draft Board for which service she was presented a certificate of appreciation from the President of the United States in September of 1955; and

Whereas, Mrs. Tressie Pierce Boyd was elected to the North Carolina House of Representatives in 1960, where she served with distinction and devotion for one term; and

Whereas, the General Assembly of North Carolina wishes to show its appreciation of her life and accomplishments and its sincere sorrow at her death;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That in the death of Mrs. Tressie Pierce Boyd, the County of Alexander and the State of North Carolina have lost one of their most distinguished, devoted, and loyal citizens.

Sec. 2. That the General Assembly of North Carolina does hereby express its high appreciation of Mrs. Tressie Pierce Boyd as a citizen and servant of her county and State and does extend sincere sympathy to her family.

Sec. 3. That a copy of this resolution shall be duly certified by the Secretary of State and by him transmitted to the family of Mrs. Tressie Pierce Boyd.

Sec. 4. This resolution shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 21st day of February, 1973.

H. R. 449

RESOLUTION 23

A JOINT RESOLUTION RECOGNIZING AND CONGRATULATING THE NORTH CAROLINA WILDLIFE FEDERATION.

Whereas, the North Carolina Wildlife Federation a nonprofit sportsmen's organization consisting of 20,000 members was created in 1945 for the purpose of promoting the conservation, restoration, management, and proper use of the wildlife and other natural resources of the State of North Carolina; and

Whereas, the North Carolina Wildlife Federation has made countless contributions to the wise use of the natural resources of this great State; and

Whereas, the North Carolina Wildlife Federation has been a pioneer in sponsoring legislation for the protection of the environment; and

Whereas, the North Carolina Wildlife Federation has lived up to the high ideals of its preamble in its efforts to conserve and protect the natural resources for the people of this State;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly of North Carolina does hereby express its deep gratitude to the North Carolina Wildlife Federation for its outstanding contributions to the State for the protection of its wildlife and natural resources.

Sec. 2. That the Secretary of State shall transmit to the President of the North Carolina Wildlife Federation a certified copy of this resolution.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of February, 1973.

S. R. 71

RESOLUTION 24

A JOINT RESOLUTION URGING REINSTATEMENT OF THE 1972 CONGRESSIONAL APPROPRIATION FOR THE RURAL ENVIRONMENTAL ASSISTANCE PROGRAM FOR 1973.

Whereas, the Congress of the United States, in 1972, as a part of the appropriation bill for agriculture, appropriated two hundred twenty-five million five hundred thousand dollars (\$225,500,000) for the Rural Environmental Assistance Program (R.E.A.P.) for calendar year 1973; and

Whereas, although the President of the United States signed the agricultural appropriation bill, it has been ordered, through the President's direction, that no monies be spent for R.E.A.P. during calendar year 1973; and

Whereas, the State of North Carolina, instead of receiving approximately five million four hundred thousand dollars (\$5,400,000) for R.E.A.P. for calendar year 1973, will now receive nothing; and

Whereas, the Rural Environmental Assistance Program has been in existence since 1936 and has aided thousands of North Carolina farmers, on a cost sharing basis, in establishing permanent pastures, planting trees, in establishing livestock lagoons, and in establishing over 30,000 farm ponds; and

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Whereas, the R.E.A.P. Program has been of invaluable assistance in conserving the lands of North Carolina for all of its citizens and the program is now entirely without funds because of the action of the President of the United States;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the President of the United States immediately order the Office of Management and Budget to release during calendar year 1973 the entire sum of two hundred twenty-five million five hundred thousand dollars (\$225,500,000) appropriated by Congress for the Rural Environmental Assistance Program.

Sec. 2. That the Congress of the United States immediately take such action as may be necessary and appropriate to see that such legislation duly considered and enacted be not thwarted by executive fiat.

Sec. 3. That copies of this resolution be sent to the President of the United States, the Office of Management and Budget, the Secretary of Agriculture, and members of the North Carolina Congressional Delegation.

Sec. 4. This resolution shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 26th day of February, 1973.

H. R. 459

RESOLUTION 25

A JOINT RESOLUTION HONORING THE OXFORD MASONIC ORPHANAGE IN ITS CENTENNIAL YEAR, COMPLIMENTING THE INSTITUTION FOR ITS ENDEAVORS AND CONTRIBUTIONS OVER THE YEARS, AND RECOGNIZING ITS PIONEERING EFFORT IN ORGANIZING CHILD CARE IN OUR STATE.

Whereas, this is the centennial year of existence for the Oxford Masonic Orphanage; and

Whereas, February 24, 1973, will be the 100th anniversary of the founding of the Oxford Masonic Orphanage; and

Whereas, the General Assembly of North Carolina desires to honor and specially recognize the Oxford Masonic Orphanage in this its centennial year; and

Whereas, the General Assembly of North Carolina wishes to compliment the Oxford Masonic Orphanage on its endeavors and contributions to child care in North Carolina; and

Whereas, the General Assembly of North Carolina recognizes the pioneering efforts in the field of child care by the Oxford Masonic Orphanage.

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly of North Carolina hereby recognizes the outstanding contribution to the State by the Oxford Masonic Orphanage, and congratulations are offered in this the centennial year of the institutions existence.

Sec. 2. The important events in the history of the Oxford Masonic Orphanage are detailed as follows:

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Following the era of Anti-Masonic fervor, Masonic philanthropy was begun during the decade of 1830. The Grand Lodge of North Carolina began an attempt to establish a "Charity School" in 1838. The rapid growth of the fraternity enabled the purchase of 109 acres of land in Oxford, and the proposed college was named St. John's College for the patron saints of the Order.

The College building was begun, the cornerstone was laid June 24, 1855, and the school opened July 13, 1858. The school never achieved much success, and ceased operations during the Civil War.

During the years of reconstruction it was impossible to reestablish a school in the St. John's College Building. There arose a movement to dispose of the property, which was decided during the Grand Lodge meeting December 2, 1872. One resolution was introduced to sell the property, but John H. Mills introduced a substitute that "the St. John's College be made into an asylum for the protection, training and education of indigent orphan children." The vote resulted in a tie, which was decided by the vote of the presiding Grand Master, John A. Nichols. Mr. John H. Mills was elected Superintendent and five hundred dollars (\$500.00) was appropriated.

While Mr. Mills was disposing of the *Biblical Recorder*, he secured the services of Reverend A. D. Cohen to act as steward in preparing the building for children. February 22, 1873, a wagon drove in and Mr. Mills received into his arms: Robert L. and Nancy Parrish, and Isabella Robertson of Granville County. This event was the creation of child care in North Carolina.

The early years were involved in struggle against poverty, indifference and open hostility. Mr. Mills traveled extensively, often with his "Singing Class", to secure help. Prominent churches adopted the new institution and consecrated the Thanksgiving Season as the gift period.

Mars Hill College was given to the Oxford Trustees and opened as a mountain unit in 1874. However, a reversal clause in the deed prevented the transfer. An attempt was also made to operate the unit in Asheville, but it too failed.

During the General Assembly of North Carolina, 1879, Governor Zebulon Vance recommended an in-service grant for assistance to the institution. The Legislature appropriated three thousand dollars (\$3,000), which began the State participation in child care. When the Charter was enacted, it provided for a Board of Directors consisting of nine Masons: six to be chosen by the Grand Lodge and three appointed by the Governor of North Carolina.

A major decision was made by the Grand Lodge in 1880 to concentrate all of its charitable child care in Oxford.

Mr. John H. Mills resigned in 1884 and later helped establish the Baptist Orphanage which bears his name in Thomasville.

The next decade was a transition period with administrations of several Superintendents for brief tenure: Dr. Benjamin F. Dixon, Reverend Junius T. Harris, Dr. William S. Black, and Reverend Nathaniel M. Lawrence.

The Governor of North Carolina appointed Mr. J. B. Duke as a Director in 1891. He inspired the Masonic fraternity to raise approximately twenty-one thousand dollars (\$21,000). The services of Colonel William J. Hicks were employed as architect to design the present campus and erect suitable buildings. Fourteen brick buildings were erected, including the Royster Cottage, in 1910.

Colonel Hicks was elected Superintendent in 1898 and Miss Nettie Nichols Bemis was employed to standardize the school. The John Nichols School

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became accredited in 1923, the same year the name was changed. It became a public school in 1931 with Orphanage supplement to maintain standards.

Mr. Richmond Lee Brown was installed as Superintendent in 1911. During his tenure an infirmary and school were erected and plans made for the erection of the Dunn Cottage and Duke Building.

Dr. Creasy Kinion Proctor was elected Superintendent in 1928. The two buildings were completed, but the great depression caught the Orphanage deeply in debt. Recovering from the depression debt and encountering war economy greatly retarded improvement plans.

The modern long-range building program began in 1951. It includes the following: 10 cottages for children, St. John's Building, Food Center, Chapel, Recreational Building, Vocational Building, two Staff Residences, and extensive renovation of older buildings. Four buildings remain to be replaced.

For 100 years the Masons of our jurisdiction have applied Masonic love to the lives of children upon the basis of the child's need. Two outstanding characteristics exemplify the greatness of the ideal of Masonic beauty which motivates Oxford Orphanage. Firstly, the Orphanage is owned and maintained by the Grand Lodge for the purpose of providing care and training for all indigent children who are approved for its care. Here the children live in the surrounding of a beautiful campus, participate in a program of wholesome training and are transformed into useful, productive citizens. Secondly, the Orphanage depends upon voluntary gifts to maintain its program. No assessment has ever been made against any Mason or Lodge in North Carolina for the support of the program of the Oxford Orphanage.

The Orphanage campus is located on 400 acres of rolling land within the city of Oxford, and occupies the highest and the most beautiful site in the surrounding area. The land, buildings and equipment are valued at four million one hundred twenty-three thousand eight hundred twenty dollars and twenty-nine cents (\$4,123,820.29). The grounds are beautifully landscaped. The main campus is completely sheltered by giant oak trees with liberally appointed shrubs, flowers and small trees encompassed within smooth well-kept lawns.

The buildings are colonial type, fireproof, brick structures. At the present time the capacity is 318 children. They are cared for on an individual basis and are maintained in the Orphanage throughout high school or as long as conditions of their family require their care. Post-graduate training is provided for those who reveal marked ability.

The entire care of the children is assumed by the Orphanage wherein is provided home life in air-conditioned cottages, food in central dining room, clothing through central supply upon an individual basis, recreational activities, complete health care including medical, surgical, dental, orthodontic, psychiatric and other health needs through cooperation with outside facilities.

Religious activities include chaplain services, Sunday School, worship hours, religious literature and the children hold membership in the four churches of Oxford.

Children attend consolidated units of public school including John A. Nichols, D. N. Hix and J. F. Webb High School.

On the campus of Oxford Orphanage we can see the beautiful results of 100 years of Masonic philanthropy, but we must view the entire world to know the spiritual power of this special love that has been engendered into the lives of

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thousands of boys and girls; who, having lived beneath the giant oaks in Oxford Orphanage, are infusing the world with their interpretations of Masonic Love.

Sec. 3. The Secretary of State shall cause copies of this resolution to be transmitted to the office of the Oxford Masonic Orphanage, in Oxford, North Carolina.

Sec. 4. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of February, 1973

S. R. 17

RESOLUTION 26

A SENATE JOINT RESOLUTION CONTINUING THE CRIMINAL CODE COMMISSION.

Whereas, the General Assembly gave legislative approval to the creation of the Criminal Code Commission in Resolution 24 of the 1971 Session; and

Whereas, the Commission membership supplemented by subsequently appointed replacement members has diligently pursued its assigned tasks of review and revision, where necessary, of the criminal law and procedure of North Carolina; and

Whereas, the Criminal Code Commission is preparing legislation for consideration by the 1973 Session of the General Assembly to rewrite the pretrial and trial criminal procedure in North Carolina; and

Whereas, the Criminal Code Commission plans to finalize its consideration of criminal procedure and a complete review of the substantive criminal law of North Carolina in time for submission to the General Assembly in its 1975 Session; and

Whereas, the magnitude of the tasks set before the Commission and the importance of its work dictate that the Commission be extended to the 1975 Session of the General Assembly.

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The Criminal Code Commission created by Resolution 24 of the 1971 Session of the General Assembly is hereby extended until February 1, 1975.

Sec. 2. The powers and duties of the Commission as set out in Resolution 24 of the 1971 Session of the General Assembly are expressly continued in effect including the responsibility to prepare a biennial report to the Attorney General for transmission to the members of the General Assembly.

Sec. 3. The original members of the Commission or their successors in office shall serve until the termination of the Commission. The Commission membership shall be enlarged to 30 members, the four additional members to be appointed by the Attorney General from among the members of the North Carolina State Bar who regularly practice criminal law.

Sec. 4. This resolution shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 27th day of February, 1973.

S. R. 253

RESOLUTION 27

A JOINT RESOLUTION EXPRESSING THE APPRECIATION OF THE GENERAL ASSEMBLY TO OUR MILITARY VETERANS.

Whereas, this nation and this State owes its freedom and continued prosperity to those young men and women who have sacrificed and fought in this nation's wars; and

Whereas, North Carolina is justly proud of its sons and daughters who bore arms in her name, who suffered to preserve her, who met the bravest her enemies had to oppose them, and who endeavored to bring peace to our world; and

Whereas, we cannot erase the scars and infirmities wounds have left, blot out the images of death, destruction and suffering which mark their minds; and

Whereas, we cannot replace the months and years given to serving our country, especially at this time of an end to our Vietnam battles;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That this General Assembly by this resolution expresses its sincere appreciation to its military veterans of all wars on the commencement of this, the first peace in the World since 1961, for their efforts in our behalf to secure North Carolina's and America's continued freedom.

Sec. 2. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of February, 1973.

S. R. 345

RESOLUTION 28

A JOINT RESOLUTION HONORING THE MEMORY OF HARRY S. TRUMAN, THIRTY-THIRD PRESIDENT OF THE UNITED STATES.

Whereas, Harry S. Truman, thirty-third President of the United States died December 26, 1972, at the age of 88, a stouthearted fighter to the end; and

Whereas, his life and deeds earned him the most profound respect of the people of the State of North Carolina which he honored in many ways including the selection of two native sons as Secretary of the Army; and

Whereas, he paid high compliment to the people of North Carolina by giving his daughter in marriage to a native of this State; and

Whereas, it is fit and proper that the General Assembly of North Carolina honor the memory of this great man of the people;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. Following in the footsteps of the immortal Franklin Delano Roosevelt, Harry S. Truman guided this country through eight of the most difficult years of its existence. It has been said that "Americans felt leaderless when Roosevelt died," but Truman taught them, because he was one of them, that their greatness lies in themselves for he was truly a man of the people. Many times he was misunderstood, but his valuable leadership, particularly in the fields of European reconstruction, aid to underdeveloped nations and civil rights, has passed the test of time.

Born in Lamar, Missouri, on a farm in 1884, the son of John Anderson Truman and Mary Young Truman, Harry S. Truman lived the life of a typical midwestern farm boy of the time. In 1890, the Truman family moved to Independence, Missouri, where he received his first formal education, graduating from Independence High School in 1901. Because of the then prevailing economic conditions he was unable to further his education and became a bank clerk in Kansas City, ironically staying at the same rooming house as the brother of the man who was to succeed him as President, Dwight D. Eisenhower.

His first connection with the military was when he joined the National Guard on Flag Day in 1905. During World War I, he served his country as a Captain in command of a unit of the 129th Field Artillery in France. These influences from the military largely determined the course of his future life, and taught him that he had the ability to lead men.

Returning to his native Missouri, he married Miss Bess Wallace on June 28, 1919. This gracious lady, preferring to stay in the background, devoted her life to her husband and his career.

His first election victory was in 1926 when he was elected Presiding Judge of the County Court. In 1934 he ran for the United States Senate supposedly under the auspices of the Pendergast machine; however, those with whom he dealt soon found that he possessed a strong code of personal integrity. In an era that was fraught with political corruption and scandal, his name was never tarnished.

His meteoric rise to the highest office in the land can be traced directly to his second Senate term. Starting as a small group on a shoestring budget, the Truman Committee studied all aspects of our World War II defense program and budget. By his committee's probings, savings were effected in excess of fifteen billion defense dollars.

Upon Roosevelt's death on April 12, 1945, this great leader was thrust into the forefront during a rapidly moving historical era, even though he never faltered, and when the crucial decision on dropping the world's first atom bomb, had to be made, Truman did not flinch from the decision. It was apparent to him that the bomb would eliminate the necessity of an American invasion of the Japanese mainland and thus save countless American lives. Later, he was equally firm in his resolve not to use the bomb in the Korean conflict.

At the Potsdam Conference to determine the fate of the post-war world, Truman proved an able negotiator. He countered Stalin's move when Russia sealed off the corridor to Berlin, by establishing the now famous Berlin Airlift. For nearly a year, American aircraft carried supplies to feed and fuel the City of 2.4 million population.

In 1947, the British finally admitted they could no longer assure the borders of freedom in the eastern Mediterranean. The Truman Doctrine reassured the world that a major power stood ready to aid free countries threatened by Communist aggression. Turning specifically to war-torn Europe, Truman initiated Secretary of State George Marshall's plan for economic revival. But for these two programs, the shattered nations of Europe might have been torn by revolution and economic distress for many years. Europe's present economic prosperity stands a noble tribute to his humanity.

Truman had a knack for matching the man with the job. Included in his cabinet was Kenneth Claiborne Royall, appointed Secretary of War in 1947, the

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last person to hold that office and Secretary of the Army, the first person to hold that office. With the able assistance of Gordon Gray, who succeeded him as Secretary of the Army, Royall, under Truman's direction, assisted in the economic rehabilitation of Europe and Japan. The Army and the Air Force were reorganized and Court Martial procedures revised. Under these native North Carolinians, the first steps toward racial integration of the armed forces were begun.

In 1948, postwar shortages, inflation, labor unrest, and the personal popularity of Thomas Dewey presented a grim picture for the Democratic Party. Undaunted by the situation, Truman turned tables on the Republicans. He embarked upon a whistle-stop campaign across the country, reaching 10 to 15 million citizens in a personal man-to-man plain spoken way no President had ever done before. "Give 'em Hell Harry" minced no words. On election night, the country went to bed amid proclamations of a Dewey victory, but the next morning this man-of-the-people once again proved that he knew his American people. He alone never doubted his victory.

During his second term, Truman pushed forward with his Point Four Program which offered aid to underdeveloped countries similar to that furnished Europe under the Marshall Plan. At home, his Fair Deal would take up where the New Deal left off. While congressional disapproval hindered the enactment of many of these liberal proposals, later years have seen the fruition of his ideas in programs covering medical insurance, immigration policy, farm supports, and civil rights.

As if one war per president was not enough, the Korean conflict started. When the United Nations branded North Korea as an aggressor, Truman did not hesitate sending American troops to defend the Truman Doctrine. His labeling of the conflict as a "police action" avoided the necessity of formal declaration of war by Congress but stirred up a storm of controversy which ultimately led to the election of Dwight D. Eisenhower in 1952. Liberals wanted a declaration of war, conservatives wanted an all-out offensive not excluding the use of atomic weapons against Red China. Just as steadfastly as he had ordered the bombing of Japanese cities, Truman refused to risk precipitating a third global war and kept the Korean conflict down to what it was - defense of the territorial integrity of South Korea.

Harry Truman declined to seek the nomination in 1952. He had given eight years of his life to the Presidency of the United States, the most demanding job in the world. This man of action retired quietly to his Independence, Missouri, home and dedicated his time to the development of the Harry S. Truman Library which contains 9.5 million documents of his administration. For years, school children occasionally heard informal talks on "The Greatest Government in the World" from the man himself. He wrote and toured schools and universities speaking on government and history.

He was a familiar figure in Independence with his morning walks and gradually faded back into the simple midwestern life from which he sprung. At the end, he fought death just as he had fought all his battles, tooth and nail. Harry always liked to quote an epitaph on a Tombstone, Arizona, grave: "Here lies Jack Williams. He done his damnest". So did this man of the people.

Sec. 2. The General Assembly of North Carolina expresses its deep admiration for, and appreciation of the life, efforts and accomplishments of

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Harry S. Truman which have resulted in a better life not merely for North Carolinians or Americans but for all the peoples of the world.

Sec. 3. The North Carolina General Assembly expresses to Mrs. Bess Truman, to his daughter and son-in-law, Margaret and Clifton Daniel, and to his entire family its deepest sympathy and asserts an abiding faith that the spirit of Harry S. Truman shall endure forever in the hearts and minds of all Americans.

Sec. 4. This resolution shall become part of the public records of the 1973 Session of the General Assembly of North Carolina and the Secretary of State shall cause certified copies of this resolution to be transmitted to the immediate family of the late President Harry S. Truman.

Sec. 5. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of February, 1973.

H. R. 475

RESOLUTION 29

A JOINT RESOLUTION HONORING ARTHUR E. JUSTICE, JR., FOR HEROIC ACHIEVEMENT.

Whereas, on August 22, 1972, Arthur E. Justice, Jr., while vacationing at the beach at Nags Head, North Carolina, with his family, heard the cries of distress of two people in the ocean. Without regard for his own personal safety, he entered the water and saved the two people from drowning; and

Whereas, he had received training in lifesaving as a Life Scout while a member of the Boy Scouts of America, Troop 901, Sylva, North Carolina; and

Whereas, as a result of his act of courage he was awarded the Distinguished Citizens Award by the Governor of the State of North Carolina on February 10, 1973; and

Whereas, Arthur E. Justice, Jr., is the only Boy Scout in Western North Carolina to receive a Lifesaving Medal; and

Whereas, he has been recommended to receive the Presidential Young American Award from the President of the United States of America; and

Whereas, Arthur E. Justice, Jr., has brought honor to himself, his family, the Boy Scouts of America and to the State of North Carolina for his act of bravery.

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the 1973 General Assembly, representing all of the people of the State of North Carolina, extends its appreciation and congratulations to the said Arthur E. Justice, Jr., for his outstanding and heroic achievement.

Sec. 2. That a copy of this resolution be spread upon the Minutes of both the House of Representatives and the Senate, and that a copy of this resolution be duly certified by the Secretary of State and be transmitted to Arthur E. Justice, Jr.

Sec. 3. That this resolution shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 27th day of February, 1973.

S. R. 362

RESOLUTION 30

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JULE MCMICHAEL, FORMER DEMOCRATIC MEMBER OF BOTH BRANCHES OF THE GENERAL ASSEMBLY OF NORTH CAROLINA, WHO SERVED HIS COUNTY, DISTRICT AND STATE WITH HONOR, DEVOTION AND DISTINCTION.

Whereas, the General Assembly of North Carolina, Session of 1973, desires to commemorate the services of Jule McMichael to his county, district, and State, and to express its sorrow for the loss sustained by his passing, which was subsequent to the adjournment of the last Session of the General Assembly; and

Whereas, Jule McMichael was born and always resided in his native county of Rockingham; educated in the public schools of his county and the University of North Carolina at Chapel Hill, Phi Beta Kappa student, with the degrees of Doctor of Laws and Doctor of Jurisprudence; and

Whereas, as a practicing attorney he was a member of his County, District, State and American Bar Associations; serving as City Attorney for Reidsville, and County Attorney for Rockingham County for many years immediately prior to his passing, and was a former President of the North Carolina Association of County Attorneys; and

Whereas, Jule McMichael represented his county and district in both branches of the General Assembly for a total of four terms with great honor and distinction, and in each of these Sessions his ability, party dedication, friendliness, loyalty and loveable disposition was recognized and appreciated by the entire membership; and

Whereas, Jule McMichael was recognized as an outstanding churchman and civic leader, and served honorably as Lieutenant Commander, USNR during World War II, and was a member of the Fourteenth Naval District Court at Pearl Harbor in 1945;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The members of the General Assembly unite in expressing for themselves and the State their sorrow for the irreparable loss sustained by the death of Honorable Jule McMichael who distinguished himself as an outstanding leader both in the State and in the nation.

Sec. 2. As a token of respect to and esteem for the honored and beloved memory of Jule McMichael, the General Assembly, Session of 1973, hereby extends its deepest and most sincere sympathy to the members of his family in their great loss, and expresses to them its grateful thanks for the many useful benefits derived from the distinguished services rendered by him during his lifetime.

Sec. 3. This resolution shall be incorporated in the permanent records of this General Assembly as a tribute and expression of respect to the memory of Jule McMichael and that a copy, duly certified, be furnished the members of his immediate family.

Sec. 4. This resolution shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 28th day of February, 1973.

S. R. 346

RESOLUTION 31

A JOINT RESOLUTION COMMEMORATING THE ONE HUNDREDTH ANNIVERSARY OF THE INCORPORATION OF APEX, AND INVITING THE GOVERNOR, COUNCIL OF STATE, MEMBERS OF THE SENATE AND HOUSE, STATE OFFICIALS AND EMPLOYEES AND THE PEOPLE OF NORTH CAROLINA TO ATTEND THE CELEBRATION MAY TENTH THROUGH MAY FIFTEENTH, ONE THOUSAND NINE HUNDRED AND SEVENTY-THREE.

Whereas, the Town of Apex was incorporated by act of the General Assembly on February 23, 1873; and

Whereas, the Town of Apex will celebrate one hundred years of its existence on May 10 through May 15, 1973; and

Whereas, the Town of Apex during the long period of her history has been outstanding in her contribution to the quality of life in the eastern Piedmont region of North Carolina and has seen many of her sons and daughters fill outstanding roles of leadership and service to the State and Nation; and

Whereas, the people of the Apex Community are uniting in the proper celebration of her one hundredth anniversary by providing an historical pageant; a parade in which there will be featured historical floats, marching units in various period uniform dress; possibly an "old-timey" train ride from Raleigh or some other station into town; and many other representations, historical tours, exhibits of historical material, and other appropriate activities; and

Whereas, the people of the Apex Community and the officials of the Apex Community Centennial desire to invite the Governor, the Lieutenant Governor, the Council of State, the members of the Senate and the House of Representatives, State officials and employees, and the people of North Carolina to attend the Centennial during the period just stated;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the Senate and House of Representatives indicate their interest in the rich and significant history of the Town of Apex and in the proper celebration of 100 years of progress.

Sec. 2. That the contribution of the Apex Community of many leaders of our State and Nation is recognized.

Sec. 3. That this resolution shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 5th day of March, 1973.

H. R. 385

RESOLUTION 32

A JOINT RESOLUTION IN OPPOSITION TO A GRANT OF AMNESTY TO THOSE WHO ILLEGALLY AVOIDED INDUCTION INTO THE UNITED STATES ARMED SERVICES OR WHO DESERTED.

Whereas, there has been much discussion of a grant of amnesty or freedom from prosecution to those who through desertion and otherwise willfully failed to fulfill their military obligations to the United States; and

Whereas, any such wholesale grant of amnesty to those who illegally avoided service in the United States Armed Forces or deserted therefrom would make a mockery of the sacrifices of the millions of Americans who did their duty, assumed their responsibilities in time of conflict, and suffered or died in time of conflict; and

Whereas, cases involving desertion or illegal flight to avoid induction into the Armed Forces may presently be tried in the courts of this country where each particular case may be heard on its merits and be dealt with appropriately and based upon the facts of the particular case;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly of North Carolina expresses its strong opposition to the grant of amnesty or freedom from prosecution to those who have in our recent time of conflict either illegally avoided induction into the United States Armed Forces or who have deserted therefrom.

Sec. 2. The Secretary of State is hereby directed to prepare and deliver certified copies of this resolution to the President of the United States and to all Congressmen and the Governor and United States Senators of the State of North Carolina.

Sec. 3. This resolution shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 5th day of March, 1973.

H. R. 403

RESOLUTION 33

A JOINT RESOLUTION HONORING THE MEN AND WOMEN WHO SERVED OUR COUNTRY IN THE CONFLICT IN SOUTHEAST ASIA.

Whereas, we recognize that Freedom is not solely a gift or blessing from God. That while God does bless Freedom-loving people everywhere, Freedom is a stewardship and must be preserved by those who would choose to remain free; and

Whereas, America, one of the great free nations of all times, has been richly blessed by God; and

Whereas, America has always had an abundance of men and women who would live up to their stewardship and come to their Country's aid whenever its safety was in danger and the Freedom of its people at stake; and

Whereas, America has had to assume much of the difficult role of preserving the Freedom for the free world; and

Whereas, our recent involvement in Southeast Asia was an effort to assist the people of that portion of the world to remain free; and

Whereas, three of our Presidents have committed our armed forces to aid these people; and

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Whereas, many thousands of young men and women have answered the call to leave their families, their jobs, and have put their futures and even their lives on the line in an effort to assist Freedom-loving peoples; and

Whereas, this involvement in Southeast Asia was not always popular with elements of our society but, notwithstanding, these young men and women continued to serve while others chose not to do so; and

Whereas, the vast majority of these young men and women have served honorably in the Armed Services during this long period of involvement; and

Whereas, our involvement is fast coming to an end; and

Whereas, the members of the General Assembly wish to offer their sincere and grateful appreciation to these young men and women for their answer to the call to assist in preservation of Freedom;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly of the great State of North Carolina goes on record honoring these young men and women for their dedicated service during the trying times of our Southeast Asian involvement.

Sec. 2. A copy of this resolution shall be sent to the President of the United States, Richard Nixon; the Governor of the State of North Carolina, James Holshouser; all members of the North Carolina Congressional Delegation in Washington, D. C.; the State Headquarters of all Veterans' Organizations in the State of North Carolina; and the National Commanders of each North Carolina Veterans' Organization.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of March, 1973.

H. R. 473

RESOLUTION 34

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF
FRED S. ROYSTER, FORMER MEMBER OF THE GENERAL
ASSEMBLY.

Whereas, Fred S. Royster, of Henderson, North Carolina, a former distinguished Representative and Senator from Vance County in the General Assembly, died in Duke University Medical Hospital at the age of sixty-three years on the 3rd day of June, 1972; and

Whereas, in the passing of Fred S. Royster, North Carolina and Vance County lost one of its most beloved and respected citizens; and

Whereas, Fred S. Royster served with honor and distinction as a Representative from Vance County in the House in 1945, 1947, 1949 and 1951, and in the Senate representing the Third District in 1953 and 1965, serving as Chairman of the Senate Agriculture Committee in 1965; and

Whereas, Fred S. Royster gave of his time and unusual talents as he served faithfully, diligently and effectively in so many organizations and public posts of honor and trust in Vance County, the State and the Nation, among them being founder, President and Managing Director of the Bright Belt Warehouse Association, outstanding contributions to the formation and success of the Tobacco Tax Council, Tobacco Associates, Inc., Tobacco Grower's Information Committee, Inc., The Council for Tobacco Research-U.S.A., North Carolina Tobacco Advisory Council, and Flue-Cured Tobacco Cooperative Stabilization

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Corporation, Chairman of the Board of Stewards, member of the Board of Trustees, Chairman of the Committee on Finance, member of the Committee on Pastor-Parish Relations, and teacher of the Men's Bible Class at his beloved Methodist Church in Henderson, several terms on the Executive Committee of the North Carolina Democratic Party, first Chairman of the State Personnel Council, President of the Henderson Lions Club, member of the Henderson Rotary Club, President of the Henderson Chamber of Commerce, and President of the Henderson Tobacco Board of Trade; and

Whereas, Fred S. Royster, who was born and raised on a tobacco farm in Vance County, gave generously of his time, vision, and judgment as a leading citizen of the Tobacco Community of the entire United States, and was rightly known as "Mr. Tobacco" because of these countless contributions to the tobacco industry; and

Whereas, Fred S. Royster is survived by his widow, Mrs. Launah Parker Royster; three sisters, Mrs. R. B. Armfield, Mt. Airy, North Carolina; Mrs. Ethel R. Brigham, Sarasota, Florida; Mrs. Lucy R. Brenner, Henderson, North Carolina; and two brothers, Mr. John S. Royster, Henderson, North Carolina; Mr. W. G. Royster, Henderson, North Carolina; and _____

Whereas, the General Assembly desires to honor the memory of Fred S. Royster and expresses its sympathy to the surviving members of his family;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly recognizes and expresses its appreciation for the public service rendered by Fred S. Royster, with full knowledge that for many years he rendered able and valuable services to his native county, the State of North Carolina, and the Nation, with a devotion to duty and outstanding character of the highest degree, and with kindness and courtesy to all who had the pleasure of knowing him in his personal, business, social, and political life.

Sec. 2. That this resolution shall become a part of the public records of the 1973 General Assembly of North Carolina, and the Secretary of State shall cause a certified copy to be transmitted to Mrs. Launah Parker Royster, his widow; Mrs. R. B. Armfield, Mt. Airy, North Carolina; Mrs. Ethel R. Brigham, Sarasota, Florida; Mrs. Lucy R. Brenner, Henderson, North Carolina, his sisters; and Mr. John S. Royster, Henderson, North Carolina, and Mr. W. G. Royster, Henderson, North Carolina, his brothers.

Sec. 3. This resolution shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 5th day of March, 1973.

H. R. 28

RESOLUTION 35

A JOINT RESOLUTION DIRECTING A STUDY OF STANDING COMMITTEES FOR THE GENERAL ASSEMBLY.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Speaker of the House of Representatives and the President of the Senate shall refer this resolution to the appropriate committees of the House of Representatives and the Senate to study all recommendations regarding standing committees for the General Assembly and those committees shall report to the respective Houses in the General Assembly no later than April 1, 1973.

Sec. 2. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of March, 1973.

H. R. 199

RESOLUTION 36

A JOINT RESOLUTION URGING REINSTATEMENT OF CONGRESSIONAL APPROPRIATIONS FOR THE RURAL ENVIRONMENTAL ASSISTANCE PROGRAM AND OTHER FUNDING REDUCTIONS OF THE UNITED STATES DEPARTMENT OF AGRICULTURE PROGRAMS.

Whereas, the Congress of the United States, as part of the appropriations bill for agriculture and assistance to our environment, did appropriate two hundred twenty-five million five hundred thousand dollars (\$225,500,000) for the Rural Environmental Assistance Program (R.E.A.P.) for this fiscal year; and

Whereas, although the President of the United States approved the appropriations bill by signing same into law, it has been ordered by the President, through the Office of Budget and Management, that no monies be spent for R.E.A.P. for calendar year 1973; and

Whereas, the State of North Carolina, instead of receiving approximately five million four hundred thousand dollars (\$5,400,000) for R.E.A.P. for this year, will now receive no additional funds; and

Whereas, the R.E.A.P. and its predecessor, the Agricultural Conservation Program (ACP) have been beneficial programs since their inception in 1936; and

Whereas, the R.E.A.P. has been favorably accepted by over 1,000,000 farmers in the nation and by more than 150,000 farm families in North Carolina and is administered by local farmer-elected committeemen in each of our 100 counties; and

Whereas, R.E.A.P. has done more to improve the environment of North Carolina than any other program through soil conservation, reducing air pollution by the planting of over 300,000 acres of trees, construction of more than 30,000 farm ponds to conserve both water and soil and furnish much needed recreation to our people, the building of more abundant wildlife habitat and improving the beauty of our countryside; and

Whereas, the R.E.A.P. has helped make America stronger and has contributed substantially to our national progress; and

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Whereas, the farmer matches dollar for dollar the comparative small amount of federal dollars going into this program which benefits all of our citizens; and

Whereas, in addition the curtailment of other U.S. Department of Agriculture programs such as those administered by the Farmers Home Administration has or will likely seriously affect farmers and nonfarmers in rural North Carolina who depend on this source of credit for farming operations and home construction; and

Whereas, these funding reductions will mean approximately eighty million dollars (\$80,000,000) in housing for low-income families will not be built between now and June 30, 1974; and

Whereas, it will mean the loss of 6,700 years of employment for North Carolina carpenters, bricklayers, plumbers, electricians and the people who work in lumber mills, building equipment supply firms, the people who manufacture and sell electrical fixtures, plumbing fixtures, roofing, wall boards and shingles; and

Whereas, additional financial losses are likely to occur to merchants, doctors, lawyers and others in our rural communities who profit from the dollars placed in circulation by the construction and farming business; and

Whereas, tax revenues that would have been derived by local communities when their tax base was broadened by the construction of new homes will be lost;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the President of the United States is hereby requested to immediately order the Office of Management and Budget to release during calendar year 1973 the entire sum of two hundred twenty-five million five hundred thousand dollars (\$225,500,000) appropriated by Congress for the Rural Environmental Assistance Program.

Sec. 2. That the funding level of the Farmers Home Administration Programs ought to be maintained at the level authorized by Congress.

Sec. 3. That the Congress of the United States should immediately take such action as may be necessary and appropriate to see that such legislative appropriations duly considered and enacted be restored.

Sec. 4. That copies of this resolution shall be sent immediately by the North Carolina Secretary of State to the President of the United States, the Office of Management and Budget, the Secretary of Agriculture, and members of the North Carolina Congressional Delegation.

Sec. 5. This resolution shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 5th day of March, 1973.

H. R. 324

RESOLUTION 37

A JOINT RESOLUTION ESTABLISHING A CUT-OFF DATE AFTER WHICH NO LOCAL BILLS MAY BE INTRODUCED IN THE GENERAL ASSEMBLY OF NORTH CAROLINA.

Whereas, the great mass of local bills introduced in the latter weeks of the session clogs the legislative machinery, consumes the time, distracts the attention, and diverts the efforts of a considerable number of members of the General Assembly from matters of statewide importance, and imposes a very severe burden upon the administrative procedure, and

Whereas, in nearly every instance these local bills could have been prepared and introduced earlier in the session without any serious inconvenience to the members of the General Assembly or to the local governing agencies and officials who participated in the formulation of the bills;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the 50th legislative day of each regular session is fixed as the deadline for the introduction of local bills in the House of Representatives.

Sec. 2. That any local bill which is offered for introduction in the House of Representatives after said deadline fixed in Section 1 above shall be rejected by the presiding officer unless the bill has been first submitted to the Rules Committee and bears the endorsement of that Committee stating that there is good reason for the delay in introducing the bill and that the bill should be accepted for introduction.

Sec. 3. That the presiding officer shall cause Sections 1 through 2 of this Resolution to be read at the first session of each week until the deadline is reached.

Sec. 4. That the members of the House of Representatives are urged to communicate the fact of the passage of this Resolution to the local governing bodies and officials in their respective districts, and to arrange the necessary conferences with these bodies and officials, to the end that necessary or desirable local legislation shall not be precluded by this Resolution.

Sec. 5. This Resolution shall be effective immediately following its ratification.

In the General Assembly read three times and ratified, this the 6th day of March, 1973.

H. R. 404

RESOLUTION 38

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF J. CURTIS ELLIS.

Whereas, J. Curtis Ellis served as Deputy Clerk of Superior Court of Nash County; and

Whereas, J. Curtis Ellis served for over thirty-one years in a capacity as County Tax Accountant, Treasurer, Tax Supervisor and Auditor of Nash County, and as County Manager; and

Whereas, J. Curtis Ellis was a devoted member of his church, serving on the Board of Stewards for over eighteen years; and

Whereas, J. Curtis Ellis was selected by the North Carolina County Commissioners Association as the county official of the year; and

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Whereas, J. Curtis Ellis served as Trustee of North Carolina Wesleyan College and served as a member of an Advisory Committee for the State Department of Archives and History; and

Whereas, J. Curtis Ellis was a leader in the field of fiscal responsibility of county government, and led his home county in establishing fiscal budget control; and

Whereas, his life and his service was an example to public officials throughout the State of North Carolina:

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly of North Carolina wishes to record its appreciation for the life of service rendered by J. Curtis Ellis to his county, his State, and his nation.

Sec. 2. That the General Assembly extends its sympathy to the family of J. Curtis Ellis for the loss of their loved one.

Sec. 3. That this resolution shall become a part of the public records of the 1973 Session of the General Assembly of North Carolina and a copy shall be duly certified by the Secretary of State and forthwith transmitted to the family of J. Curtis Ellis.

Sec. 4. This resolution shall be effective upon its adoption.

In the General Assembly read three times and ratified, this the 8th day of March, 1973.

H. R. 446

RESOLUTION 39

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF HUGH FERNLEY BEAM, FORMER LEGISLATOR.

Whereas, Hugh Fernley Beam, a native of Lincoln County, North Carolina, and long time resident of Marion, North Carolina, died at the age of sixty-six on April 11, 1972, after a long and dedicated life of public service, it is fitting that the General Assembly of North Carolina should take note of some of his contributions to the State of North Carolina;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That Hugh Fernley Beam was born in Lincoln County, North Carolina on February 1, 1906, to the late Dones Pinckney Beam and Ocie Bess Beam of Lincoln County, North Carolina. He attended school and graduated from Piedmont Preparatory School of Lawndale, North Carolina in 1924, and then in 1928 graduated from Lenoir-Rhyne College of Hickory, North Carolina.

On June 4, 1930, he married Louise Taylor of Statesville, North Carolina, who begot him two sons, Hugh F. Beam, Jr. of Mableton, Georgia and Donald Beam of Charlotte, North Carolina. After his marriage, he attended school and received his law degree from Wake Forest University in 1933. He returned to his native county where he served as Principal of Marion High School in Marion, North Carolina until he was appointed Superintendent of Marion's city schools.

In 1967 Beam left the position of Superintendent of Schools to open a law office in Marion which he maintained until his death. Throughout his life and career he held an active interest in the improvement of his community and the

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politics of the State of North Carolina. Beam was a member of the Marion Kiwanis Club and served as Lieutenant Governor of District One, Carolinas Kiwanis Clubs. He was a Deacon of the First Presbyterian Church of Marion where he taught the Men's Bible Class for more than 30 years.

In 1968 Hugh Fernley Beam was elected to the House of Representatives and there he served on numerous committees. He was Vice Chairman in 1971 of the committees on Education, Roads and Wildlife Resources.

During his long and varied career Hugh Fernley Beam earned the respect and affection of his fellow workers and colleagues for his courage and candor, his vigor and determination, his keen intelligence, and the lively enthusiasm he gave to all his endeavors.

Sec. 2. That the North Carolina General Assembly recognizes and expresses its appreciation for the public services rendered by Hugh Fernley Beam, services which have contributed greatly to the betterment of North Carolina.

Sec. 3. That this resolution shall become a part of the public records of the 1973 Session of the General Assembly of North Carolina, and the Secretary of State shall cause a certified copy to be transmitted to the family of Hugh Fernley Beam.

Sec. 4. That this resolution shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 8th day of March, 1973.

H. R. 405

RESOLUTION 40

A JOINT RESOLUTION HONORING THE KINGSMEN QUARTET OF ASHEVILLE.

Whereas, the Kingsmen Quartet of Asheville has been singing professionally for 15 years and is the granddaddy of all professional quartets in North Carolina; and

Whereas, the Kingsmen Quartet has made 24 long-play record albums and a number of singles and sings over its own 30-minute weekly show syndicated on nine major Southern television stations; and

Whereas, the Kingsmen Quartet travels 125,000 miles each year singing and performing before vast audiences and carrying the good-will message of the City of Asheville and State of North Carolina; and

Whereas, the Kingsmen Quartet has rendered many civic services statewide and nationwide for the benefit of people, singing in churches, prisons, retirement homes, juvenile centers, and for civic organizations; and

Whereas, the Kingsmen Quartet is dedicated and loyal to the people of the State of North Carolina, bringing an untold number of hours of joy and brotherhood to these people; and

Whereas, the Kingsmen Quartet is composed of good, honest Christian men who love to spread the gospel in song; and

Whereas, the Kingsmen Quartet will be honored by the people of the City of Asheville on "Kingsmen Appreciation Night" March 24 in the Asheville City Auditorium;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

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Section 1. The General Assembly of the State of North Carolina recognizes and honors the Kingsmen Quartet for its dedication and many services rendered to the people of the State of North Carolina and the people of the rest of these United States, and proclaims the Kingsmen Quartet as the State of North Carolina's unofficial "Diplomats of Song" to carry the State's message of good will to the people of all the United States.

Sec. 2. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of March, 1973.

H. R. 421

RESOLUTION 41

A JOINT RESOLUTION COMMENDING THE CIVIC AND RELIGIOUS ORGANIZATIONS, GOVERNMENT EMPLOYEES, RED CROSS, MEMBERS OF THE ARMED SERVICES AND LAW ENFORCEMENT OFFICERS DURING THE RECENT DISASTER OF FLOOD AND SNOW STORMS IN EASTERN NORTH CAROLINA.

Whereas, certain civic and religious organizations, especially the Jaycees, law enforcement officers, citizen band operators, volunteer rescue squads, State, county and city employees in North Carolina, the Red Cross, Civil Defense and members of the armed services, have provided shelter, food, clothing and medical assistance when needed during the disaster of flood and snow storms in Eastern North Carolina the past few weeks; and

Whereas, these aforementioned concerned citizens performed courageous and courteous acts during the flood and snow storms; and

Whereas, these aforementioned concerned citizens gave sacrificially of their time and efforts during the flood and snow storms;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly of North Carolina hereby and herewith congratulates and commends the aforementioned concerned citizens of North Carolina for the aforementioned courageous and courteous acts performed by them during the disaster of flood and snow storms during the past few weeks.

Sec. 2. That this resolution shall become a part of the public records of the 1973 Session of the General Assembly of North Carolina.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of March, 1973.

S. R. 365

RESOLUTION 42

A JOINT RESOLUTION URGING THE UNITED STATES DEPARTMENT OF AGRICULTURE TO CANCEL REPORTED PLANS TO MOVE THE ASCS EASTERN AERIAL PHOTOGRAPHY LABORATORY FROM ASHEVILLE, NORTH CAROLINA TO SALT LAKE CITY, UTAH.

Whereas, the Administrator of ASCS, United States Department of Agriculture, Washington, D. C. plans to move the Eastern Aerial Photography Laboratory from Asheville, North Carolina to Salt Lake City, Utah; and

Whereas, the Eastern Aerial Photography Laboratory, Asheville, North Carolina is appropriately located to serve the 30 eastern states it is now serving; and

Whereas, this facility was designed especially for the laboratory containing 35,000 square feet on which the lease runs to August, 1977; and

Whereas, the Asheville Eastern Laboratory was established originally to specifically furnish photographs to ASCS county offices for measuring the acreages of tobacco, peanuts, cotton, rice and other crops in the states where more than 90 per cent (90%) of these crops are grown; and

Whereas, in addition to furnishing reproductions to ASCS offices, Congress has authorized provisions for sale of photography, at cost, to other federal agencies, state and local governments, and to the general public; and

Whereas, many professional engineers, tax mapping departments, development planners, state and local governments in the 30 state eastern region depend on the Asheville laboratory for rectified enlargements in their professional services which, among other benefits, aid in the conservation of our natural resources and enhance our pollution control programs; and

Whereas, the revenue collected from the sale of photographs has enabled the Eastern Aerial Laboratory at Asheville to operate on a profit basis, which is most unique in all of government; and

Whereas, much has been said recently by the National Administration about keeping government services close to the people; and

Whereas, the moving of the ASCS Eastern Aerial Photography Laboratory at Asheville to Salt Lake City would cause undue hardship for those using this vital service by the inevitable problems of communications and time of delivery and would in fact result in a decrease in volume and efficiency of service;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the Honorable Earl Butz, Secretary of Agriculture, immediately cause any plans to move the ASCS Eastern Aerial Photography Laboratory from Asheville, North Carolina to Salt Lake City, Utah to be canceled.

Sec. 2. That copies of this resolution be sent to the President of the United States, the Office of Management and Budget, the Secretary of Agriculture, members of the North Carolina Congressional Delegation: including both United States Senators, and all eleven members of the United States House of Representatives, and the Governor of North Carolina.

Sec. 3. This resolution shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 13th day of March, 1973.

H. R. 527

RESOLUTION 43

A JOINT RESOLUTION HONORING LT. COL. DAVID B. HATCHER, UNITED STATES AIR FORCE PILOT, UPON HIS RELEASE AS A POW IN NORTH VIETNAM WHERE HE WAS HELD IN CAPTIVITY FOR ALMOST SEVEN YEARS.

Whereas, the General Assembly of North Carolina realizes that freedom is not simply a gift, but rather a stewardship and must often be defended by those who would choose to be free; and

Whereas, the United States of America, the greatest free nation in history, has had to assume much of the difficult role of preserving the freedom throughout the world; and

Whereas, our recent involvement in Southeast Asia has resulted in three of our Presidents having committed our armed forces to aid these people in the preservation of their freedom; and

Whereas, many thousands of young men and women have answered the call to leave their families, their jobs and put their futures and even their lives on the line in an effort to assist freedom-loving people; and

Whereas, Lt. Col. David B. Hatcher, a pilot in the United States Air Force, did willingly make the sacrifice to assist these people; and

Whereas, Lt. Col. David B. Hatcher did fly 95 air missions over the territory of North Vietnam; and

Whereas, while on his 96th mission over North Vietnam on May 30, 1966, his aircraft was shot down; and

Whereas, Lt. Col. David B. Hatcher was taken prisoner by the North Vietnamese; and

Whereas, Lt. Col. David B. Hatcher remained a prisoner of war until his release on February 12, 1973; and

Whereas, the family of Lt. Col. David B. Hatcher, his wife, Willodene, and daughters, Elizabeth and Allison, have made a terrible sacrifice in the interest of freedom; and

Whereas, the family of Lt. Col. David B. Hatcher has been reunited;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly of the Great State of North Carolina does, at this time, wish to pay tribute to a brave North Carolinian, Lt. Col. David B. Hatcher, and his family for making such a great sacrifice in the interest of freedom.

Sec. 2. That this resolution shall become a part of the records of the 1973 Session of the General Assembly and copies shall be duly certified by the Secretary of State and transmitted by Senator Folger and Representative Hiatt for transmittal to Lt. Col. David B. Hatcher.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of March, 1973.

S. R. 445

RESOLUTION 44

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF MISS KATIE COBB.

Whereas, Katie Cobb, who served as Lenoir County's only auditor for forty-two years since the creation of the post in 1923 until her retirement in 1965 and devoted a total of fifty-two years' service to Lenoir County as a public official, was born on the ninth of June, 1895, and died the twenty-second of February, 1973, at the age of seventy-seven; and

Whereas, in the passing of Katie Cobb, North Carolina and Lenoir County lost a most beloved and respected citizen; and

Whereas, Katie Cobb was an active member of Saint Mary's Episcopal Church of Kinston, serving as its treasurer for fifteen years and the first woman ever elected to the vestry; and

Whereas, Katie Cobb took pride in maintaining Lenoir County's fiscal affairs on a solvent basis and encouraging economy in all areas; and

Whereas, Katie Cobb is survived by many friends and relatives to whom she devoted her life; and

Whereas, Katie Cobb earned the respect and affection of her fellow workers and colleagues for her generosity, honesty and the enthusiasm she gave to all of her endeavors; and

Whereas, Katie Cobb loved North Carolina and always worked for its betterment; and

Whereas, the General Assembly desires to honor the memory of Katie Cobb and extend its sympathy to the surviving members of the family;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly recognizes and expresses its appreciation for many years of selfless public service rendered by Katie Cobb to Lenoir County, and to the State of North Carolina, with full knowledge of the valuable contribution she made in all aspects of her life, with a sense of deep loss at her passing.

Sec. 2. The General Assembly extends its sincere sympathy to the family of Katie Cobb.

Sec. 3. This resolution shall become a part of the public records of the 1973 Session of the General Assembly of North Carolina, and the Secretary of State shall cause certified copies to be transmitted to Janice Cobb Johnson of Kinston, and Mary Hartsfield also of Kinston.

Sec. 4. This resolution shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of March, 1973.

H. R. 656

RESOLUTION 45

A JOINT RESOLUTION HONORING LIEUTENANT COLONEL ARTHUR T. BALLARD, JR., UNITED STATES AIR FORCE PILOT, UPON HIS RETURN TO THE UNITED STATES FROM NORTH VIETNAM WHERE HE WAS HELD AS A PRISONER OF WAR FOR SIX AND ONE-HALF YEARS.

Whereas, the General Assembly of North Carolina recognizes that freedom is the most important and cherished aspect of a democracy which must be protected and guaranteed, often at high risk and cost to the people of our great Nation; and

Whereas, in the course of protecting this freedom in our country, it is sometimes necessary that our citizens serve in armed conflict on foreign soil; and

Whereas, Lieutenant Colonel Arthur T. Ballard, Jr. served his country most ably as a pilot in the United States Air Force in Southeast Asia and during the course of this service, his F-105 plane was shot down over North Vietnam on September 26, 1966; that he was forced to bail out over enemy territory during the course of which he fractured a leg and sustained other injuries, resulting in his capture by the North Vietnamese; and

Whereas, Lieutenant Colonel Ballard was held in captivity for more than three years before his wife, son and parents even learned that he was still alive; and

Whereas, during the course of this captivity, his mother died never knowing if her son would ever return home; and

Whereas, his wife Ruth and son Kevin made their home in Rutherford County, North Carolina, while other members of his family resided in Spartanburg, South Carolina, anxiously awaiting and praying for his safe return; and

Whereas, Lieutenant Colonel Arthur T. Ballard, Jr. has now been released by the North Vietnamese and has been reunited with his family in the United States;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly of North Carolina does now pay tribute to a brave and courageous North Carolinian and his family for the great sacrifice they have made in the interest of freedom and democracy.

Sec. 2. That this 1973 General Assembly hereby welcomes Lieutenant Colonel Ballard back to North Carolina and joins with the citizens of Rutherford County in rejoicing over his safe return.

Sec. 3. That this resolution shall become a part of the permanent records of the 1973 Session of the General Assembly of North Carolina and that copies shall be duly certified by the Secretary of State and forwarded to Lieutenant Colonel Arthur T. Ballard, Jr., his wife, Ruth; his son, Kevin at Lake Lure, North Carolina; and to his father, Arthur T. Ballard, Sr., in Spartanburg, South Carolina.

Sec. 4. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of March, 1973.

H. R. 657

RESOLUTION 46

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JAMES A. GLOVER.

Whereas, James A. Glover served for thirty-six years as Director of Social Services for Nash County; and

Whereas, James A. Glover served as President of the North Carolina Association of Welfare Directors; and

Whereas, James A. Glover served as President of the National Association of Welfare Directors; and

Whereas, James A. Glover was an active worker and lay leader in the Nashville United Methodist Church; and

Whereas, the opinion of James A. Glover in the field of Public Welfare, was respected by the leaders of our State and nation; and

Whereas, James A. Glover served as a member of the State and Local Advisory Committee on Welfare Reform, and served on the North Carolina Association's Legislative Committee and the State Legislative Council; and

Whereas, from 1953 until 1959 James A. Glover served on the State Retirement Board and in 1962 he was chosen to pilot the program for establishing a food stamp program in North Carolina; and

Whereas, James A. Glover was concerned about the needs of the poor of our State and yet was keenly aware of the necessity for a social services program being flawlessly administered:

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly of North Carolina wishes to record its appreciation for the life of James A. Glover, an able, useful and loyal servant of the people of his county, his State, and his nation.

Sec. 2. That the General Assembly extends its sympathy to the family of James A. Glover for the loss of their loved one.

Sec. 3. That this resolution shall become a part of the public record of the 1973 Session of the General Assembly of North Carolina, and a copy shall be duly certified by the Secretary of State and forthwith transmitted to the family of James A. Glover.

Sec. 4. This resolution shall be effective upon its ratification.

In the General Assembly read three times and ratified, this the 21st day of March, 1973.

H. R. 719

RESOLUTION 47

A JOINT RESOLUTION HONORING MR. AND MRS. CLIFTON O'NEAL HOWELL ON THE OCCASION OF THEIR 50TH WEDDING ANNIVERSARY.

Whereas, Clifton O'Neal Howell and Mary Jane Johnson were united in holy matrimony on March 14, 1923, in Greensboro, North Carolina; and

Whereas, there was born to this union two sons, Clifton O'Neal Howell, Jr., now deceased, and D. Lamarr Howell, now a dentist in Los Angeles, California, both of whom graduated from the North Carolina Agricultural and Technical State University; and

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Whereas, Clifton O'Neal Howell graduated from North Carolina Agricultural and Technical State University in Greensboro, North Carolina and worked with Vocational Agriculture in Guilford County, North Carolina and Holland, Virginia for some 30 years, making a great contribution to the lives of young men in the areas where he served; and

Whereas, Mrs. Mary Jane Howell attended Bennett College and the North Carolina Agricultural and Technical State University in Greensboro, North Carolina and the Franklin Institute in New York and thereafter worked for many years in the Clothing Clinic at Bennett College and the Library at A. and T. State University and served as a volunteer Girl Scout Worker for 30 years, making a great contribution to the lives of thousands of young women in the Greater Greensboro Area; and

Whereas, Mr. and Mrs. Howell are long time members of Saint Matthews United Methodist Church where they have served faithfully in many capacities and have served as goodwill ambassadors to people of all faiths; and

Whereas, the citizens of Greensboro are honoring Mr. and Mrs. Clifton O'Neal Howell with a 50th Wedding Anniversary celebration on Saturday, March 17, 1973, at the A. and T. State University Memorial Union;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly of North Carolina hereby congratulates Mr. and Mrs. Clifton O'Neal Howell on their 50th Wedding Anniversary and wishes for them many years of continued health, happiness and marital bliss.

Sec. 2. Further resolved, that a copy of this resolution be certified by the Secretary of State and forwarded to Mr. and Mrs. Clifton O'Neal Howell, 311 Stewart Street, Greensboro, North Carolina, 27401.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of March, 1973.

H. R. 807

RESOLUTION 48

A JOINT RESOLUTION HONORING THE NORTH CAROLINA CONGRESS OF PARENTS AND TEACHERS.

Whereas, the National Congress of Parents and Teachers was founded in February 1897, Washington, D.C., and in November 1919, the North Carolina Congress of Parents and Teachers was organized as a branch of the National Congress and in April 1927, the North Carolina Congress of Colored Parents and Teachers was organized as a branch of the National Congress of Colored Parents and Teachers and in April 1969 the North Carolina branches of the two Congresses united to form the North Carolina Congress of Parents and Teachers as a branch of the National Congress of Parents and Teachers and is commonly known as the North Carolina State P.T.A.; and

Whereas, from the beginning the sole purpose of the organization has been to advocate and promote excellence in the education, care and protection of children and young people in the home, school, church and community; and

Whereas, this advocacy is being pursued in part by the review and evaluation of the proposed legislation being considered by the General Assembly and members of the General Assembly are being required to carefully review

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and evaluate legislation in support of or in opposition to bills affecting the welfare of children and young people;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly endorses and praises the worthy objectives of the North Carolina State P.T.A. and commends the membership for its diligent and dedicated pursuit of these objectives.

Sec. 2. That the North Carolina State P.T.A. is hereby encouraged to continue the pursuit of its objectives of promoting the welfare of children and young people in North Carolina.

Sec. 3. That a copy of this resolution be certified by the Secretary of State and transmitted to the North Carolina State P.T.A. President for deposit in the State P.T.A. headquarters building at Raleigh among the records of the North Carolina State P.T.A.

Sec. 4. That this resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of March, 1973.

S. R. 512

RESOLUTION 49

A JOINT RESOLUTION COMMEMORATING THE CELEBRATION OF THE BIENNIAL PILGRIMAGE OF COLONIAL EDENTON AND COUNTRYSIDE, AND INVITING THE MEMBERS OF THE NORTH CAROLINA GENERAL ASSEMBLY AND THE PUBLIC TO ATTEND.

Whereas, the Biennial Pilgrimage of Colonial Edenton and Countryside will be held on Friday, Saturday, and Sunday, April 13, 14, and 15, 1973, in Edenton, North Carolina.

Whereas, the Pilgrimage will feature tours of many buildings and private homes in the area, including: the Wessington House, 1850, property occupied in 1730 by Sir Richard Everard, Governor of North Carolina; the Cupola House, ca. 1725, noted for its Jacobean architecture; the James Iredell House, 1759, home of the first Associate Justice of the United States Supreme Court; the Penelope Barker House, ca. 1782, the home of Mrs. Barker, who, according to tradition, presided at the famed Edenton Tea Party in 1774; St. Paul's Episcopal Church, 1736, the second oldest church in the State; the Chowan Courthouse, 1767, considered the finest Georgian Courthouse in the South; Yeopim Church, ca. 1851, minutes of the Church begin in 1775, though the congregation dates further back, the present building was built after the Church burned in 1850; and St. Ann's Catholic Church, founded in the year 1857 by three young Edenton ladies.

Whereas, both the Chowan Courthouse and the Cupola House have been included in the National Register of Historic Landmarks, and the James Iredell House and Wessington House have been included in the National Register of Historic Places.

Whereas, it is preservation, rather than restoration, that makes the Edenton Pilgrimage one of the most outstanding of the home tours; and its town and country houses are nationally known for their authenticity and fine state of preservation, with many dating prior to the Revolution.

Whereas, in addition to the homes tours, there will be a Reader's Theater Production Saturday evening, April 14, at 8:15 at John A. Holmes High School

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Auditorium; the Carolina Reader's Theater Company from Chapel Hill will present *A Wilde Night*, "a humorous and sardonic view of man's foibles as seen by Oscar Wilde".

Whereas, an Arts and Crafts Fair will be held at the Joseph Hewes Hotel during the Pilgrimage; and an added attraction to the Fair will be Joseph Koch (Jo-Ko), an artist famous for his outstanding works of the Outer Banks of North Carolina.

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The Edenton Woman's Club, sponsor of the Biennial Pilgrimage of Colonial Edenton and Countryside, is commended for its efforts in presenting this historic pageantry.

Sec. 2. The members of the General Assembly, the citizens of North Carolina, and all visitors to our State are cordially invited to attend the Biennial Pilgrimage to be held on April 13, 14, and 15, 1973.

Sec. 3. Copies of this resolution shall be forwarded to the Edenton Woman's Club, Edenton, North Carolina.

Sec. 4. This resolution shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 23rd day of March, 1973.

S. R. 524

RESOLUTION 50

A JOINT RESOLUTION RECOGNIZING AND ENDORSING THE SECOND WEEK OF MARCH AS NATIONAL PEANUT WEEK.

Whereas, the second week of March has been proclaimed National Peanut Week; and

Whereas, peanuts are nutritious, delicious and sexy; and

Whereas, peanuts are a sixty million dollar crop in Eastern North Carolina; and

Whereas, peanuts are good for all of North Carolina's economy;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The North Carolina General Assembly recognizing and endorsing the designation of the second week of March as National Peanut Week, extends its thanks to all those associated with the peanut industry for their contributions to the State.

Sec. 2. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of March, 1973.

S. R. 529

RESOLUTION 51

A JOINT RESOLUTION HONORING ROCKINGHAM COUNTY HIGH SCHOOL BASKETBALL TEAMS.

Whereas, Rockingham County has distinguished itself by producing three high school basketball teams from a countywide system of four schools which, during the past season, earned the right to represent their county in three post season State basketball tournaments; and

Whereas, the Reidsville High School basketball team ably represented among others by Melvin Watkins, Charlie Wilkerson, Armenous Adams, Leon Richardson, and Gerald Courts and under the inspiration and instruction of their coach, Hoy Isaacs, finished a 25-0 season by winning the North Carolina State 4-A Championship; and

Whereas, the Madison-Mayodan High School basketball team ably represented, among others by Jerry Moore, Kim Cure, Bill Elmore, Tony Johnson, Mark Baker, and Eddie Mooney and under the inspiration and instruction of their coach, Leroy Myers, finished a highly successful season by winning the North Carolina State 3-A Championship; and

Whereas, the Wentworth High School basketball team ably represented, among others by Daryl Galloway, Mark Lewis, Jay Stafford, William Walker, Steve Gunn and Randy Wilson and under the inspiration and instruction of their coach, Grady Stafford, completed a noteworthy season by placing fourth in the North Carolina State 1-A Championship;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the North Carolina General Assembly extend congratulations to the entire basketball teams of Reidsville, Madison-Mayodan, and Wentworth High Schools for their amazing basketball success and for making Rockingham County North Carolina's High School Basketball County of the Year.

Sec. 2. That the Secretary of State forward a copy of this resolution to Coaches Hoy Isaacs, Leroy Myers and Grady Stafford, and each member of the Reidsville, Madison-Mayodan, and Wentworth High School basketball teams; and that the General Assembly direct that a copy of this resolution become a part of the permanent records of the State of North Carolina.

Sec. 3. That this resolution shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 23rd day of March, 1973.

H. R. 589

RESOLUTION 52

A JOINT RESOLUTION CALLING ATTENTION TO INEQUITIES IN APPORTIONMENT OF FEDERAL HIGHWAY TRUST FUNDS AMONG THE STATES AND REQUESTING CHANGES IN THE APPORTIONMENT FORMULA.

Whereas, the Federal Highway Administration on February 23, 1973, issued a report on estimated earnings, apportionments and expenditures of Federal Highway Trust Funds during the fiscal years 1957 through 1972;

Whereas, said report shows that during the period 1957 through 1972 North Carolina received only fifty-two cents (52¢) for every dollar contributed by it to the Highway Trust Fund;

Whereas, during the last five years North Carolina received only the following amounts for each dollar contributed to the Highway Trust Fund:

1968 - forty-eight cents (48¢)

1969 - forty-two cents (42¢)

1970 - thirty-seven cents (37¢)

1971 - forty-six cents (46¢)

1972 - fifty cents (50¢)

Whereas, the amount received by North Carolina not only during the past five years but also during the entire 16 years' existence of the Highway Trust Fund, from the Highway Trust Fund, as a percentage of the amounts contributed, is the lowest received by any state by a significant margin; and

Whereas, the apportionment formula adopted by the United States Congress has worked to the distinct disadvantage of the citizens of North Carolina;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the apportionment formula for allocating Highway Trust Funds among the several states be changed to provide a more equitable distribution of funds among the states and to bring North Carolina and other states which have received less than their fair share, into a fuller participation in the present and future highway programs.

Sec. 2. That a copy of this resolution be transmitted to the President of the United States, the Chairman of the Roads Committee of the United States House of Representatives, the Chairman of the Roads Committee of the United States Senate and to each member of the North Carolina delegation to the United States Congress.

Sec. 3. This resolution shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 23rd day of March, 1973.

H. R. 872

RESOLUTION 53

A JOINT RESOLUTION HONORING CAPTAIN BARRY B. BRIDGER WHO WAS MISSING IN ACTION IN VIETNAM FOR OVER SIX YEARS.

Whereas, Captain Barry B. Bridger, son of the late Henry C. Bridger and Myrtle MacRae Bridger, attended Sewanee Military Academy in Tennessee for a period of two years; and

Whereas, Captain Barry B. Bridger was so active in sports that he became a four-letterman and was elected his school's most valuable athlete his senior year; and

Whereas, Captain Barry B. Bridger has shown himself to be very interested in young people in that he served as a counselor at a camp for underprivileged boys which was sponsored by the City of New York; and

Whereas, Captain Barry B. Bridger graduated from the University of North Carolina at Chapel Hill in 1962 and entered the United States Air Force in 1963 where he subsequently became the first pilot on an F4C Phantom jet; and

Whereas, Captain Barry B. Bridger, as an Air Force pilot, served his country well during the time he fought in the Vietnam War; and

Whereas, Captain Barry B. Bridger was listed as missing in action on January 23, 1967; and

Whereas, as a result of the recently signed peace agreement, Captain Barry B. Bridger was released from captivity on March 4, 1973, and was returned to the United States March 8, 1973;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly of North Carolina commends, honors, and expresses its gratitude to Captain Barry B. Bridger for all that he has accomplished, both in his civilian and military careers and welcomes him home with great pride that he is a native son of North Carolina.

Sec. 2. That copies of this resolution, duly certified by the Secretary of State, be sent to Captain Barry B. Bridger and to his brother, John MacRae Bridger.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of March, 1973.

H. R. 738

RESOLUTION 54

A JOINT RESOLUTION CONGRATULATING THE NORTH CAROLINA STATE UNIVERSITY BASKETBALL TEAM.

Whereas, the North Carolina State University basketball team has just concluded the greatest season in the University's history, with an undefeated 27-0 record; and

Whereas, the United Press International and Associated Press polls have rated them number two in the country, although the citizens of this great State rank them number one; and

Whereas, Norman Sloan, Coach of the Wolfpack, has been named Atlantic Coast Conference Coach of the Year; and

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Whereas, two native sons of this State, namely David Thompson of Shelby and Tommy Burleson of Newland, have received the highest individual recognition possible, with Thompson being the youngest first-team All-American in the history of the sport, in addition to being All-ACC and Player of the Year while leading the ACC in scoring with a new North Carolina State University individual scoring record of 24.7 points per game, and Burleson leading the ACC in rebounding for the second straight year, made the all-conference first team, All-American Second Team and did in fact receive the Everett N. Case Award, named after the Wolfpack's late and great coach, as the Most Valuable Player in the Atlantic Coast Conference Tournament as voted by the league's coaches; and

Whereas, this exciting Wolfpack team not only set a new seasonal school and conference scoring record at 92.9 points and a new victory margin of 21.8 points per game, won the University's seventh Atlantic Coast Conference basketball title, which is two more than any other ACC school has achieved; and

Whereas, in gaining its national ranking, this great basketball team did score six wins over teams ranked in the top ten at the time of their meeting; and

Whereas, this group of Wolfpack student-athletes, Tommy Burleson, David Thompson, Rick Holdt, Joe Cafferky, Monte Towe, Mark Moeller, Steve Nuce, Tim Stoddard, Craig Kuszmaul, Greg Hawkins and Steve Smoral, did bring the State of North Carolina national and international recognition; and

Whereas, they joined the Atlantic Coast Conference Football Coach of the Year, Lou Holtz, and the Peach Bowl Championship football team, in leading North Carolina State University to a combined 1972-73 major sport record that is only equaled by UCLA;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That this august body do honor and pay tribute to these outstanding achievements by North Carolina State University student-athletes and coaches on this the 15th day of March, 1973.

Sec. 2. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1973.

S. R. 588

RESOLUTION 55

A JOINT RESOLUTION COMMEMORATING THE 100TH ANNIVERSARY OF THE FOUNDING OF THE TOWN OF MOORESVILLE.

Whereas, Mooresville was founded on March 3, 1873, and this year marks the 100th anniversary of that founding; and

Whereas, the Mayor of Mooresville has proclaimed 1973 as Mooresville Centennial Year; and

Whereas, the Mooresville Centennial Corporation is directing celebration activities; and

Whereas, all citizens have been urged to grow facial appendages or wear appropriate female centennial garb; and

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Whereas, all citizens not participating will be appropriately punished;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. All members of the North Carolina General Assembly are invited to participate in the fun and activities during the week of May 17 through 22; however, all legislators are hereby proclaimed members of the Headquarters Chapter - Old Smoothies Club, and entitled to all privileges thereof.

Sec. 2. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of April, 1973.

H. R. 588

RESOLUTION 56

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF FRED O. CHRISTOPHER, FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, Fred O. Christopher, a former distinguished Representative from Cherokee County in the General Assembly, died in his hometown of Murphy, North Carolina, on the ninth day of June, 1971; and

Whereas, Fred O. Christopher served with honor and distinction in the House representing Cherokee County in 1921; and

Whereas, Fred O. Christopher was a member of an outstanding Western North Carolina family, being the son of Wesley and Laura De Land Christopher, prominent Murphy citizens, and was senior member of the law firm of Christopher and Hoover at the time of his death; and

Whereas, Fred O. Christopher served with great efficiency during his legal career as attorney for the Town of Murphy, Cherokee County Attorney, attorney for Southern Railroad, legal counsel for First Union National Bank of Murphy and at the time of his untimely demise was a member of the Men's Bible Class of the First Baptist Church of Murphy and served as head of the legal committee for the new building for his church as well as being President of the Thirtieth Judicial District Bar Association; and

Whereas, he is survived by his widow, Bess H. Christopher; and

Whereas, the General Assembly desires to honor the memory of Fred O. Christopher, and expresses its sympathy to the surviving widow;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly recognizes and expresses its appreciation for the public service rendered by Fred O. Christopher, with full knowledge that for many years he rendered able and valuable services in his native county and to the State of North Carolina, with a devotion to duty and outstanding character of the highest degree, and with kindness and courtesy to all who had the pleasure of knowing him in his personal, business, social, and political life.

Sec. 2. That this resolution shall become a part of the public records of the 1973 General Assembly of North Carolina, and the Secretary of State shall cause a certified copy to be transmitted to Mrs. Bess H. Christopher, his widow.

Sec. 3. This resolution shall become effective upon ratification.

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In the General Assembly read three times and ratified, this the 9th day of April, 1973.

H. R. 863

RESOLUTION 57

A JOINT RESOLUTION ENDORSING THE OBSERVANCE OF NATIONAL LIBRARY WEEK.

Whereas, the week of April 8-14 has been designated as National Library Week by the National Book Committee, the American Library Association, the Special Libraries Association and the North Carolina Library Association; and

Whereas, libraries are basic service institutions providing for the informational and recreational needs of citizens of every age and status; and

Whereas, the total development of North Carolina is dependent upon the fullest development and use of its libraries of every kind;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the North Carolina General Assembly endorse the observance of National Library Week and recommend observance of it to the citizens of North Carolina who should consider well the great value of their libraries of every kind and dedicate themselves anew to the improvement of them.

Sec. 2. This resolution shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 9th day of April, 1973.

S. R. 412

RESOLUTION 58

A JOINT RESOLUTION PROVIDING FOR ANNUAL LEGISLATIVE SESSIONS AND ANNUAL BUDGET APPROPRIATIONS FOR EACH YEAR OF THE 1973-75 BIENNIUM.

Whereas, the General Assembly of North Carolina has for many years convened regularly once every two years and has appropriated funds to support State government on a biennial basis; and

Whereas, the increasing complexity and magnitude of State government, the constantly changing impact of uncertain and shifting federal funding on State and local governments, the constant output of new and varying judicial rulings on legal and constitutional questions, new scientific inventions and discoveries, and the generally accelerating tempo of modern life make it increasingly difficult for the General Assembly to deal effectively with State problems, particularly budget and appropriations problems on a biennial basis; and

Whereas, it is desirable to experiment with annual sessions and annual appropriations before making permanent changes in long-established procedures;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That when the current session of the General Assembly adjourns, that it do not adjourn *sine die*, but rather that it adjourn to reconvene on a date certain, to be fixed in the adjournment resolution.

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Sec. 2. That the Appropriations Committee of each house is to report to the floor of that house a committee substitute for the Budget Appropriations Bill providing for appropriations of the budget for the 1973-74 fiscal year only, and that the current session of the General Assembly make appropriations for that year only.

Sec. 3. That when the adjourned session provided for in Section 1 of this Resolution convenes, the Appropriations Committee of each house is to report to the floor of that house a bill providing for appropriations of the budget for the 1974-75 fiscal year only and that the adjourned session of the General Assembly make appropriations for that year only.

Sec. 4. The adoption of this Resolution by the Senate and by the House of Representatives shall constitute a change in the Rules of each chamber as provided in G.S. 143-15.

Sec. 5. This resolution shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 9th day of April, 1973.

S. R. 415

RESOLUTION 59

A JOINT RESOLUTION URGING THE UNITED STATES FOREST SERVICE TO GIVE MAXIMUM CONSIDERATION TO WILDLIFE VALUES WHEN DEVELOPING PLANS FOR MANAGEMENT OF THE WILSON CREEK UNIT OF THE PISGAH NATIONAL FOREST.

Whereas, the Wilson Creek area is one of the last wild and near primitive areas in Caldwell, Burke, and Avery counties comprised of some 45,000 acres of forest land which includes some of the best hunting and fishing in North Carolina; and

Whereas, the U.S. Forest Service is considering various alternatives for management of the Wilson Creek unit of the Pisgah National Forest; and

Whereas, the people of North Carolina, and particularly those individuals and sportsmen's organizations in the immediate area of Burke, Caldwell, and Avery counties are gravely concerned over the preservation and proper use of the valuable natural resources located within this management unit;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the management plan adopted by the Wilson Creek unit should not only optimize wildlife opportunities as proposed in Alternative Plan No. 2 of the proposal presented at the public hearing at Morganton on December 5, 1972, but should also further include provisions which should safeguard the wildlife resources of the unit, particularly the valuable trout streams. The plans should include protected zones along these streams where timber cutting and road building will be prohibited, with these areas being of sufficient size and width to give complete protection from erosion. No area cut should be greater than 40 acres, with at least a 1,000 foot buffer zone between each area cut. The plans should further include the wildlife management recommendations made to the U.S. Forest Service by the N. C. Wildlife Resources Commission, which include protection for trout streams as well as recommendations concerning timber harvest, wildlife habitat development, mineral extraction, road and trail construction and maintenance and control of access.

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Sec. 2. That copies of this resolution be sent to the Honorable Governor James E. Holshouser, Jr., the President of the United States, the U.S. Forest Service, and members of the N.C. Congressional Delegation.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of April, 1973.

S. R. 594

RESOLUTION 60

A JOINT RESOLUTION PROCLAIMING APRIL 9-14, 1973, AS LIFE INSURANCE WEEK IN NORTH CAROLINA.

Whereas, the Life Insurance Industry of North Carolina makes a substantial contribution to the well-being of our citizens, providing not only financial protection against loss but also providing home and commercial mortgage financing; and

Whereas, the industry annually honors in excess of twenty billion dollars (\$20,000,000,000) of life insurance in force in North Carolina and pays nearly ten million dollars (\$10,000,000) in taxes to our State; and

Whereas, the life insurance companies of North Carolina are deeply involved in a nationwide effort by the industry to finance housing and job opportunities for low income families; and

Whereas, the industry itself provides thousands of jobs for citizens of our State;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly of North Carolina hereby proclaims the week of April 9-14, 1973, as Life Insurance Week in North Carolina.

Sec. 2. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1973.

S. R. 633

RESOLUTION 61

A JOINT RESOLUTION HONORING THE LIFE, SERVICE AND MEMORY OF DR. H. BROOKS JAMES, VICE PRESIDENT OF THE CONSOLIDATED UNIVERSITY OF NORTH CAROLINA.

Whereas, Dr. H. Brooks James, one of this State's outstanding educators and most distinguished citizens, died on March 24, 1973, in Chapel Hill, North Carolina, The General Assembly, in recognition of the deep debt which this State and its people owe to Dr. James, desires to honor his life, his service, and his memory; and

Whereas, H. Brooks James was born in Stanly County on August 27, 1912. He received his Bachelors of Science and Masters Degrees from North Carolina State and his Doctorate from Duke University. He did post-doctoral study at the University of Chicago. Following his graduation from North Carolina State in 1932, he spent a year as a farm manager at Oakboro and taught agriculture at Knightdale High School. In 1934-35 he was assistant farm agent in Cleveland County for the Agricultural Extension Service and served as county agent in Montgomery County in 1935-38; and

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Whereas, Dr. James returned to the campus of North Carolina State with the Extension Service in 1939-42, and in 1943-44, was an economist with the U. S. Department of Agriculture. In 1944, he was appointed to the faculty in Agricultural Economics at State and became head of the Department in 1950, a position which he held until 1957 when he became Director of Instruction in the School of Agriculture. In 1960, he became Dean of the School of Agriculture and Life Sciences at North Carolina State University, a position in which he served with distinction. While head of the State's Department of Economics, he played a major role in developing its national prominence and as Dean of the School of Agriculture and Life Sciences, he presided over its growth in biological sciences and other research that has meant so much to the University; and

Whereas, Dr. James is survived by his widow, Mrs. Verna Lee G. James of Raleigh; a daughter, Mrs. Stephen B. Willis of Elizabethtown; and a son, David Brooks James of Raleigh;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the General Assembly honors the memory of Dr. H. Brooks James and expresses its deep gratitude and appreciation and the gratitude and appreciation of this State and its citizens, for his life and service to North Carolina.

Sec. 2. That a certified copy of this resolution be transmitted by the Secretary of State to Mrs. Verna Lee G. James at her home in Raleigh, North Carolina.

Sec. 3. That this resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1973.

H. R. 925

RESOLUTION 63

A JOINT RESOLUTION HONORING THE GUILFORD COLLEGE BASKETBALL TEAM AND COACHES FOR WINNING THE 1973 NATIONAL ASSOCIATION OF INTERCOLLEGIATE ATHLETICS BASKETBALL CHAMPIONSHIP IN KANSAS CITY, MISSOURI, ON MARCH 17, 1973.

Whereas, the Guilford College Basketball Team and Coaches Jack Jensen and Buzz Dunning have brought honor to the State of North Carolina for their outstanding success in basketball; and

Whereas, the team and coaches were the first Guilford College team to be accorded a national championship; and

Whereas, the Guilford College team was the first North Carolina team to win the N.A.I.A. Championship in the 36 years of its existence; and

Whereas, the Guilford College team was the first unseeded team to win the championship in the 36 year history of the tournament, winning five games in six days in a tournament with representation by 32 colleges; and

Whereas, this achievement was a team effort, recognition is hereby accorded these student athletes, M. L. Carr, Teddy East, Greg Jackson, Robert Fulton, Ray Massengill, Steve Hankins, Lloyd Free, John Ralls, Robert Kent, Greg Speas, Kenny Bunker and Niel Welborn, who did bring the community of Guilford and the State of North Carolina national and international recognition; and

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Whereas, two of these student athletes, namely M. L. Carr and Lloyd Free, were named to the first team All-Tournament and received gold watches. Also, Free was named the Most Valuable Player of the tournament and given the Chuck Taylor MVP Award. He was the first freshman to receive the MVP Award in the 36 year history of the tournament; and

Whereas, the Guilford College team has brought to basketball the finest in sportsmanlike conduct and has been an inspiration to the youth of the State;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the 1973 General Assembly representing all the people of North Carolina extends our appreciation and congratulations to the Guilford College Basketball Team and Coaches for their outstanding contribution to the sport of basketball.

Sec. 2. That a copy of this resolution be spread upon the minutes of both the House of Representatives and the Senate and that a copy of this resolution shall be duly certified by the Secretary of State and be transmitted by him to the Guilford College Basketball Team and Coaches.

Sec. 3. This resolution shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1973.

H. R. 926

RESOLUTION 64

A JOINT RESOLUTION HONORING COL. NORMAN C. GADDIS, UNITED STATES AIR FORCE PILOT, UPON HIS RELEASE AS A POW IN NORTH VIETNAM WHERE HE WAS HELD IN CAPTIVITY FOR ALMOST SIX YEARS.

Whereas, the General Assembly of North Carolina realizes that freedom is not simply a gift, but rather a stewardship and must often be defended by those who would choose to be free; and

Whereas, the United States of America, the greatest free nation in history, has had to assume much of the difficult role of preserving the freedom throughout the world; and

Whereas, our recent involvement in Southeast Asia has resulted in three of our Presidents having committed our armed forces to aid these people in the preservation of their freedom; and

Whereas, many thousands of young men and women have answered the call to leave their families, their jobs and put their futures and even their lives on the line in an effort to assist freedom-loving people; and

Whereas, Col. Norman C. Gaddis, a pilot in the United States Air Force, did willingly make the sacrifice to assist these people; and

Whereas, Col. Norman C. Gaddis did fly combat missions over North Vietnam from November 18, 1966, to March 1967; and

Whereas, Col. Norman C. Gaddis returned to Vietnam March 26, 1967, where he continued to fly combat missions over North Vietnam; and

Whereas, his plane was shot down just seven weeks after his return to Vietnam; and

Whereas, Col. Norman C. Gaddis was captured as a prisoner of war on May 12, 1967; and

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Whereas, Col. Norman C. Gaddis remained a prisoner of war until his release March 4, 1973; and

Whereas, the family of Col. Norman C. Gaddis, his wife, Hazel; sons, Steve and Tony; daughter-in-law, Dale; and grandchildren, Leslie and Nathan, have made a terrible sacrifice in the interest of freedom; and

Whereas, the family of Col. Norman C. Gaddis has been reunited;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly of the great State of North Carolina does, at this time, wish to pay tribute to a brave North Carolinian, Col. Norman C. Gaddis, and his family for making such a great sacrifice in the interest of freedom.

Sec. 2. That this resolution shall become a part of the records of the 1973 Session of the General Assembly and copies shall be duly certified by the Secretary of State and transmitted by Representatives McDaniel and Powell for transmittal to Col. Norman C. Gaddis.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1973.

H. R. 927

RESOLUTION 65

A JOINT RESOLUTION HONORING LIEUTENANT COMMANDER EUGENE E. McDANIEL, USN.

Whereas, Eugene E. McDaniel is a native of Kinston, North Carolina, and the beloved son of the late Willard Grifton McDaniel and Mrs. Helen McDaniel; and

Whereas, Eugene E. McDaniel has and continues to serve with distinction in the United States Navy and presently holds the rank of Lieutenant Commander; and

Whereas, Lieutenant Commander McDaniel, while serving his country in a foreign land, was shot down while on a mission over North Vietnam and spent approximately six years in the prisoner-of-war camp; and

Whereas, Lieutenant Commander McDaniel, never losing faith in himself or his country, finally realized his dream of freedom on March 8, 1973;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The members of the North Carolina General Assembly, its officers and presiding officers wish to express their gratitude for his steadfast dedication to duty and liberty and his contribution to peace and freedom for his county and State.

Sec. 2. The members of the North Carolina General Assembly, its officers and presiding officers wish to express further the joy and happiness experienced by his fellow Tar Heels for his safe return home and to extend a hearty "well done".

Sec. 3. The Secretary of State shall cause a certified copy of this resolution to be transmitted to Lieutenant Commander Eugene E. McDaniel, USN.

Sec. 4. This resolution shall become effective upon ratification.

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In the General Assembly read three times and ratified, this the 12th day of April, 1973.

H. R. 955

RESOLUTION 66

A JOINT RESOLUTION HONORING THE HONORABLE FRANK W. HANFT ON THE OCCASION OF HIS RETIREMENT FROM THE GENERAL STATUTES COMMISSION.

Whereas, the Honorable Frank W. Hanft has served the people of North Carolina and the North Carolina General Statutes Commission as a Member of the Commission from 1946 to 1972, as Vice-Chairman of the Commission from 1954 to 1961, and as Chairman of the Commission from 1961 to 1967; and

Whereas, the Honorable Frank W. Hanft retired from the faculty of the University of North Carolina School of Law, declined reappointment to the General Statutes Commission by the Dean of the University of North Carolina School of Law, and resigned as a Member of the Commission effective May 31, 1972; and

Whereas, his years of continuous service provided the strong thread of personal continuity so necessary to the effective work of an appointive commission; and

Whereas, he has through his diligent efforts on behalf of the General Statutes Commission contributed materially to the growth of a sound body of law in the State of North Carolina;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That by this resolution, the General Assembly desires to honor Frank W. Hanft and to express its sincere and heartfelt appreciation for his long years of faithful service to the General Statutes Commission and to the people of the State of North Carolina.

Sec. 2. That the Secretary of State is directed to prepare and deliver to the Honorable Frank W. Hanft a certified copy of this resolution.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of April, 1973.

S. R. 729

RESOLUTION 67

A JOINT RESOLUTION COMMEMORATING THE 197TH ANNIVERSARY OF THE HALIFAX RESOLVES.

Whereas, April 12, 1973, is the 197th anniversary of the occasion on which the Fourth North Carolina Provincial Congress adopted the famous Halifax Resolves; and

Whereas, the Halifax Resolves authorized the North Carolina delegates to the Continental Congress at Philadelphia to concur with the delegates of other colonies in a declaration of independence from the British Empire; and

Whereas, the members of the Fourth Provincial Congress were already determined on the course of independence and knew other colonies were likewise so determined; and

Whereas, the said members forbore to take unilaterally an action which they conceived ought to be taken by all thirteen colonies in unison; and

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Whereas, by such forbearance they set the example for American unity in defense of American liberty; and

Whereas, such examples led ultimately to the winning of American independence and to the establishment of the oldest surviving constitutional republic in the world; and

Whereas, the example set at Halifax on April 12, 1776, ought ever to be an inspiration and model for all North Carolinians and Americans; and

Whereas, April 12 of every year has been designated as Halifax Day; and

Whereas, Halifax Day is the occasion on which the State and the nation are annually reminded of the wisdom, courage, and foresight of the Fourth North Carolina Provincial Congress; and

Whereas, the General Assembly of North Carolina is desirous of making known its approbation and support of the purpose of Halifax Day;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the General Assembly of North Carolina extends its warmest wishes and highest respects to those citizens of North Carolina and other states gathered at Halifax to commemorate Halifax Day.

Sec. 2. The General Assembly commends to all North Carolinians and all Americans that they study and emulate the example set at Halifax by the members of the Fourth North Carolina Provincial Congress on April 12, 1776.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of April, 1973.

H. R. 873

RESOLUTION 68

A JOINT RESOLUTION HONORING THE 1972-73 BASKETBALL TEAM OF FAYETTEVILLE STATE UNIVERSITY.

Whereas, Fayetteville State University, the second oldest public supported institution of higher learning in North Carolina, under the tutelage of Coach Thomas L. Reeves, has won its first Central Intercollegiate Athletic Association Basketball Tournament championship by toppling Elizabeth City State University, Winston-Salem State University, and in the finals defeating defending CIAA Champion, Norfolk State College 94-89 in overtime to win the coveted title; and James Tyus, Terrence Murchison and Alton Cogdell were named to the 1973 All-CIAA Tournament team; and

Whereas, Fayetteville State University then represented the CIAA in the NCAA College Division Regionals, defeating Eckerd College, Saint Petersburg, Florida, 95-66 before an enthusiastic audience in the Cumberland County Memorial Arena on Tuesday, March 6, and thereby earning the right to travel to South Atlantic Regionals, Salem, Virginia, March 8-9, 1973, where the Broncos lost a heartbreaker to Old Dominion College 80-74 but overpowered Baltimore Loyola 81-66 to win consolation honors; and

Whereas, the FSU Broncos finished the 1972-73 campaign with an overall record of 21 wins and 11 losses, lost only one man, Terrence Murchison, from

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this fine team, and will continue to be a team to be reckoned with in the years ahead;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly extends its congratulations to the coach and players of Fayetteville State University's basketball team for its fine 1972-73 season, and wishes the University continued success with its athletic program.

Sec. 2. That a copy of this resolution shall be spread upon the minutes of both houses of the General Assembly, and copies of this resolution shall be sent to the coach and members of the basketball team by the Secretary of State.

Sec. 3. This resolution shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 19th day of April, 1973.

H. R. 865

RESOLUTION 69

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF
ROBERT JAMES HESTER, JR., FORMER LEGISLATOR.

Whereas, Robert James Hester, Jr., a native of Bladen County, North Carolina, and long time resident of Elizabethtown, North Carolina, died at the age of 69 on February 28, 1973, after a long and dedicated life of public service, it is fitting that the General Assembly of North Carolina should take note of some of his contributions to the State of North Carolina;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That Robert James Hester, Jr., was the son of the late Robert James and Rena Gaston Melvin Hester. He was educated in the Elizabethtown public schools and later attended Wingate Junior College and Wake Forest University where he obtained his law degree.

In August of 1926 Robert James Hester, Jr., opened a law office in Elizabethtown, North Carolina, and remained in the practice of law until his death.

In 1927 Robert James Hester, Jr., married the former Mary Pitkin Thomas of Burgaw, North Carolina, who survives him along with their two sons, Robert J. III of Baltimore, Maryland, and Thomas of Elizabethtown.

Robert James Hester, Jr., worked for many years to further the improvement of his community. He served as mayor of Elizabethtown, judge and solicitor in the old Recorders Court, and as county attorney which he held from 1954 until his death. He was a former president of the Elizabethtown Rotary Club, a member of the State and National Bar Associations, a Mason and chairman of the county Selective Service Advisory Board during World War II. He was active in the church affairs of his community and was buried at the Trinity Methodist Church.

Throughout his life and career, he held an active interest in the politics of the State of North Carolina. He served terms in both the House of Representatives and the Senate. Later he helped launch the careers of many others interested in politics. He was prominent in Bladen County politics for 47 years and held many offices within his party's organization.

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Robert James Hester, Jr., was a former member of the board of trustees of Fayetteville State University and was at one time a member of the board of directors of the North Carolina and Atlantic Railroad.

In his long and varied career, Robert James Hester, Jr., earned the respect and affection of his fellow workers and colleagues for his courage and candor, his vigor and determination, his keen intelligence, and the lively enthusiasm he gave to all his endeavors.

Sec. 2. That the North Carolina General Assembly recognizes and expresses its appreciation for the public services rendered by Robert James Hester, Jr., services which have contributed greatly to the betterment of North Carolina.

Sec. 3. That this resolution shall become a part of the public records of the 1973 Session of the General Assembly of North Carolina, and the Secretary of State shall cause a certified copy to be transmitted to the family of Robert James Hester, Jr.

Sec. 4. That this resolution shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 19th day of April, 1973.

H. R. 996

RESOLUTION 70

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF W. DENNIS MADRY, FORMER DEMOCRATIC MEMBER OF THE GENERAL ASSEMBLY OF NORTH CAROLINA, WHO SERVED HIS COUNTY AND STATE WITH HONOR, DEVOTION AND DISTINCTION.

Whereas, the General Assembly of North Carolina, Session of 1973, desires to commemorate the services of W. Dennis Madry to his county and State and to express its sorrow for the loss sustained by his passing; and

Whereas, W. Dennis Madry was born in Scotland Neck, North Carolina, and was the son of the late Robert Jarrett and Lena Allsbrook Madry; was educated in the public schools of his county and the University of North Carolina at Chapel Hill, which he entered only a few weeks after his fifteenth birthday; he received his B. A. Degree from the University of North Carolina in 1926 and his Bachelor of Law Degree in 1927, and he was a member of Lambda Chi Alpha Fraternity and Phi Alpha Delta Law Fraternity at the University of North Carolina; and

Whereas, W. Dennis Madry entered the practice of law in Burlington. W. Dennis Madry was a Member of the Alamance County Bar Association and a past President of that organization, and a Member of the Burlington Rotary Club; he also served in leadership positions in the North Carolina Municipal Attorney's Association and the Modern Woodmen of America; and

Whereas, W. Dennis Madry was elected to the North Carolina State Senate in 1945, representing the Democratic Party, and served with distinction during the 1945 Session of the General Assembly of North Carolina; and

Whereas, W. Dennis Madry served as City Attorney for the City of Burlington from 1945 until 1968, and served as a Magistrate of the Alamance County District Court, and Assistant County Court Judge, and was named in 1968 as Judge of Small Claims Court; and

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Whereas, he is survived by his wife, the former Thelma Starling Madry, of the home, and two sons, W. Dennis Madry, Jr., of Greensboro, and N. Worth Madry of Beach Mountain, and one sister, Mrs. C. W. Bazemore of Raleigh;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The members of the General Assembly unite in expressing for themselves and the State their sorrow for the irreparable loss sustained by the death of W. Dennis Madry, who distinguished himself as an outstanding leader both in his county and in the State.

Sec. 2. As a token of respect to and esteem for the honored and beloved memory of W. Dennis Madry, the General Assembly, Session of 1973, hereby extends its deepest and most sincere sympathy to the members of his family in their great loss, and expresses to them its grateful thanks for the many useful benefits derived from the distinguished services rendered by him during his lifetime.

Sec. 3. This resolution shall be incorporated in the permanent records of this General Assembly as a tribute and expression of respect to the memory of W. Dennis Madry and that a copy, duly certified by the Secretary of State, be furnished the members of his immediate family.

Sec. 4. This resolution shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 19th day of April, 1973.

H. R. 998

RESOLUTION 71

A JOINT RESOLUTION HONORING THE NORTH CAROLINA AGRICULTURAL AND TECHNICAL STATE UNIVERSITY BASKETBALL TEAM FOR WINNING THEIR SECOND STRAIGHT MID-EASTERN ATHLETIC CONFERENCE TOURNAMENT IN DURHAM, NORTH CAROLINA, MARCH 10, 1973.

Whereas, North Carolina A&T was guided through its first season as a major college competitor in the NCAA by head coach Warren Reynolds and assistant Frank Levister; and

Whereas, the Aggies along with Grambling College became the first predominately black universities in the nation to participate in the famed ECAC Holiday Festival Tournament in New York's Madison Square Garden; and

Whereas, in the two-year history of the Mid-Eastern Athletic Conference (MEAC), North Carolina A&T has won both tournaments; the first one in 1972 under Calvin Irvin, who retired as head basketball coach after his team compiled a 401 to 143 won-lost record; and the second tournament on March 10, 1973, under the new head coach, Warren Reynolds; and

Whereas, over 18,000 persons, overwhelmingly North Carolinians, have enjoyed A&T's performance against interstate rivals at the affair each season; and

Whereas, this accomplishment was a team effort, recognition is hereby accorded these student athletes: William Harris, James Outlaw, Lloyd Glover, Willie Daniels, Milton Nunnally, Al Carter, Artice Jackson, Bobby Goodwin, Allen Spruill, Ronald Johnson, Sinclair Colbert and Raymond Perry, who have

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brought the Greensboro area and the State of North Carolina national recognition; and

Whereas, three of these young men, namely William Harris, James Outlaw and Willie Daniels were named to the All-MEAC Tournament Team, and Harris was accorded the tournament's "Most Valuable Player" honor; and

Whereas, William Harris was named to the Associated Press second team All-American list and landed on Black Mutual Radio Sports All-American team as a result of his outstanding tournament and season performances; and

Whereas, the poise and determination of the Aggie coaches and players continue to entrench this State institution in the battlefield of the nation's top sports powers;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the 1973 General Assembly representing all the people of North Carolina extends our appreciation and congratulations to the North Carolina A&T State University basketball team and coaches for their outstanding contribution to the sport of basketball.

Sec. 2. That a copy of this resolution shall be duly certified by the Secretary of State and transmitted to: Mr. Calvin Irvin, Athletic Director, North Carolina A&T State University, Greensboro, North Carolina.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of April, 1973.

H. R. 1006

RESOLUTION 72

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF DOSSEY BATTLE TEAGUE.

Whereas, on June 20, 1972, the State of North Carolina lost one of its most beloved and productive citizens with the death of Dossey Battle Teague; and

Whereas, Dossey Battle Teague was born on October 1, 1881, in Randolph County, North Carolina, the son of Dr. Samuel Teague and Sarah Elizabeth Moffitt Teague; and

Whereas, he was a graduate of Massey Business College of Richmond, Virginia; of Buies Creek Academy, now Campbell College; and of the University of North Carolina School of Law; and

Whereas, in 1915, he was married to the former Beatrice McNeill, daughter of Reverend and Mrs. M. D. McNeill of Cameron; and

Whereas, during World War I he was Lee County Food Administrator and during World War II served on the Lee County Draft Board; and

Whereas, he was a distinguished lawyer, well-known for his integrity and outstanding ability in his profession and for his kind, helpful and attentive association with younger members of the Bar; and

Whereas, he served faithfully as Lee County Attorney, Judge of Lee County Criminal Court and as Sanford City Attorney; and

Whereas, he was active in politics in Lee County and the State, having served a term in the House of Representatives of the General Assembly in 1919; and

Whereas, he was active in the religious life of his community, having served as a deacon, and for many years as a teacher of a Bible class named in his

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honor, and having prepared a history of the First Baptist Church of Sanford; and

Whereas, he was active in the civic affairs of Sanford, being in great demand as a public speaker wherein he distinguished himself as a notable phrasemaker and historian and member of the Sanford School Board of Trustees; and

Whereas, he was respected, admired and loved by those who knew him and had the privilege to work with him; and

Whereas, he is survived by two daughters, Elizabeth, now Mrs. O. T. Sloan of Sanford, and Emily, now Mrs. James Johnston of Clinton; a brother, S. F. Teague of Raleigh; and six grandchildren;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. By this resolution, we hereby memorialize the distinguished life and career of one of North Carolina's finest sons, Dossey Battle "D. B." Teague, of Lee County, and express to his family our sincere sympathy in their loss occasioned by his death on June 20, 1972, a loss which is shared by everyone who knew Dossey Battle Teague.

Sec. 2. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of April, 1973.

H. R. 1007

RESOLUTION 73

A JOINT RESOLUTION HONORING THE MEMORY OF THE HONORABLE FRANK S. WHITE, MEMBER OF THE GENERAL ASSEMBLY.

Whereas, Frank S. White was born in Randolph County, North Carolina, on July 23, 1911, and died in Lumberton, North Carolina, on Saturday, March 17, 1973, at the age of 61; and

Whereas, Frank S. White served with distinction as a Representative in the 1973 Session of the General Assembly, representing the counties of Hoke, Robeson, and Scotland; and

Whereas, Frank S. White served his home county of Robeson by serving on the Robeson County Board of Education from December, 1952, to April, 1953, and on the Robeson County Board of Commissioners from April, 1953, until 1958; and

Whereas, Frank S. White served as a member of the Board of Directors of the Scottish Bank of Pembroke, which later became the First Union National Bank, from January 26, 1954, until his death; and

Whereas, Frank S. White served his church, the Calvary Methodist Church of Pembroke, from the early 1940's until his death and served as Chairman of the Board of Trustees of the Calvary Methodist Church of Pembroke from 1960 until his death; and

Whereas, he served the community of Lumberton, North Carolina, by serving as President of the Warehouse Association in 1961, and as President of the Lumberton Tobacco Board of Trade in 1967; and

Whereas, he served his State by being an active member of the North Carolina Zoological Authority from 1969 until his death; and

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Whereas, his legislative, civic and charitable works were of great benefit to the citizens of Hoke, Robeson and Scotland Counties and North Carolina;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That in the death of Frank S. White, Hoke, Robeson and Scotland Counties and North Carolina have suffered the loss of a distinguished citizen.

Sec. 2. That a copy of this resolution shall be duly certified by the Secretary of State and by him transmitted to the family of Frank S. White.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of April, 1973.

H. R. 1174

RESOLUTION 74

A JOINT RESOLUTION HONORING COMMANDER JAMES MARTIN HICKERSON, UNITED STATES NAVY PILOT, UPON HIS RELEASE AS A POW IN NORTH VIETNAM, WHERE HE WAS HELD IN CAPTIVITY FOR OVER FIVE YEARS.

Whereas, the General Assembly of North Carolina recognizes that freedom is the most important and cherished aspect of a democracy, which must be protected and guaranteed, often at high risk and cost to the people of our great Nation; and

Whereas, in the course of protecting this freedom in our Country, it is sometimes necessary that our citizens serve in armed conflict on foreign soil; and

Whereas, Commander James Martin Hickerson served his country most ably as a pilot in the United States Navy in Southeast Asia in the recent Vietnam War; and

Whereas, on a mission launched from the aircraft carrier USS Ranger on December 22, 1967, his A7A Corsair II was shot down over North Vietnam, forcing him to bail out over enemy territory and resulting in his capture by the North Vietnamese; and

Whereas, during the course of his captivity he suffered indescribable indignities and hardships; and

Whereas, during his captivity his mother, Mrs. Faye Hickerson, resided in Lenoir, North Carolina, anxiously awaiting and praying for his safe return; and

Whereas, Commander James Martin Hickerson has been released by the North Vietnamese and has been reunited with his family in the United States; and

Whereas, in spite of his hardships, he expresses great loyalty to his Country and to the United States Navy and plans to continue his Naval career; and

Whereas, he has been quoted as saying, "We're not the heroes. The real heroes are the ones who didn't make it back."; and

Whereas, James Martin Hickerson, who was born in Lenoir, North Carolina, on February 14, 1934, will be honored in a ceremony in Lenoir on Wednesday, April 26;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

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Section 1. The General Assembly of North Carolina does now pay tribute to a brave and courageous North Carolinian for the great sacrifices he has made in the interest of freedom and democracy.

Sec. 2. That this 1973 General Assembly hereby welcomes Commander James Martin Hickerson home to his Country and joins with the citizens of Lenoir in rejoicing over his safe return.

Sec. 3. That this Resolution shall become a part of the records of the 1973 Session of the General Assembly, and copies shall be duly certified by the Secretary of State and transmitted to Senator Donald Kincaid and Representative William Stevens for delivery to Commander James Martin Hickerson.

Sec. 4. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of April, 1973.

S. R. 697

RESOLUTION 75

A JOINT RESOLUTION PROVIDING FOR THE PROCEDURE FOR NOMINATING AND ELECTING MEMBERS OF THE BOARD OF GOVERNORS OF THE UNIVERSITY OF NORTH CAROLINA.

Whereas, the General Assembly is charged with the responsibility of filling vacancies which occur in the membership of the Board of Governors of the University of North Carolina; and

Whereas, it is incumbent upon both the Senate and the House of Representatives to have uniform methods and procedures in filling vacancies which occur in the membership of the Board of Governors of the University of North Carolina;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. There are hereby adopted procedures for nominating and electing members of the Board of Governors of the University of North Carolina as follows:

I. JOINT SESSION - RESPONSIBILITIES

1. It is the duty of the House Committee on University Trustees and the Senate Committee on Higher Education, in joint session, to nominate at least two candidates for each opening in each category of seats on the Board of Governors of the University of North Carolina.

2. Meeting in joint session, the Committee will screen nominees as to their qualifications and background, making sure that suitable candidates are nominated for each category, that each is willing and able to serve and has no statutory disabilities.

3. Committee nominations will be placed before a joint session of the House and Senate.

II. JOINT SESSION - NOMINATIONS

1. In the joint session of the Senate and House of Representatives, the floor shall be opened for nominations after the Committee report has been made. Nominations shall be grouped into four categories, as required by G.S. 116-6:

- (1) Women
- (2) Minority races
- (3) Republicans

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(4) At large

2. In placing a name in nomination, the nominator shall state the category for which his nominee is being nominated. An individual cannot be nominated in more than one category.

3. There is no limit to the number of persons a Senator or Representative may nominate.

4. Nominations shall continue until the number of nominees is at least twice the number of places to be filled in each category. For example, a minimum of two women, two Republicans, two racial minority members, and 10 at large members.

5. No vote will be taken on nominees in the joint session. When all nominations have been received, the joint session will be dissolved.

6. The Chairman of the House Committee on University Trustees and the Chairman of the Senate Committee on Higher Education shall contact all nominees and ascertain whether they would serve if elected. Any nominee may withdraw his name without the approval of his nominator. If withdrawals reduce the number of candidates below twice the number of places to be filled in any category, another joint meeting of the Senate and House Committees shall be held to receive sufficient additional nominations in that category.

7. A ballot shall be prepared under the supervision of the Chairman of the House Committee on University Trustees and the Chairman of the Senate Committee on Higher Education for the use of the Senate. The ballot shall list all nominees of the joint session who have consented to run and their names shall be arranged (a) by category and (b) within each category, alphabetically by surname.

8. The Senators shall proceed to mark their ballots for the following:

One person in the women's category

One person in the minority race category

No persons in the Republican category

Two persons in the at large category

9. The Chairman of the Senate Committee on Higher Education and the Chairman of the House Committee on University Trustees shall be responsible for canvassing the vote and declaring the results thereof.

10. In order to be chosen, a nominee must receive a majority of all the votes cast for his category. When a nominee for a category containing a single position is to be chosen and no candidate receives a majority of the votes cast for all the candidates in that category, a runoff shall be conducted between the person receiving the highest and the person receiving the second highest number of votes cast. When fewer than two candidates in the at large category receive a majority of all the votes cast for positions in that category, a runoff to fill the open position or positions shall be conducted among the persons receiving the highest number of votes cast, and the number of persons to be voted on in the runoff shall be twice the number of positions remaining to be filled.

11. When the Chairman of the Senate Committee on Higher Education and the Chairman of the House Committee on University Trustees have determined that the Senate has chosen one member of the Board of Governors who is a woman, one member of the Board of Governors who is a member of a minority race, and two members of the Board of Governors from the at large category, the Chairman of the Senate Committee on Higher Education shall make a motion for the simultaneous election of those four persons by the Senate

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to the indicated positions. No further nominations may be made. The roll of the Senate then shall be called, and each Senator who is present shall vote "aye" or "no" on the motion of the Chairman. If a majority of those voting vote "aye", the persons whose names appear on the list shall be declared to have been elected.

12. A ballot shall then be prepared under the supervision of the Chairman of the House Committee on University Trustees and the Chairman of the Senate Committee on Higher Education for the use of the House of Representatives. That ballot shall list all nominees of the joint session who have consented to run, and their names shall be arranged (a) by category and (b) within each category, alphabetically by surname. The names of the persons who have been elected to the Board of Governors by the Senate shall be appropriately marked.

13. The Representatives shall proceed to mark their ballots for the following:

No person in the women's category

No person in the minority race category

One person in the Republican category

Three persons in the at large category

14. The Chairman of the Senate Committee on Higher Education and the Chairman of the House Committee on University Trustees shall be responsible for canvassing the vote and declaring the results thereof.

15. In order to be chosen, a nominee must receive a majority of all the votes cast for his category. When a nominee for a category containing a single position is to be chosen and no candidate receives a majority of the votes cast for all the candidates in that category, a runoff shall be conducted between the person receiving the highest and the person receiving the second highest number of votes cast. When fewer than three candidates in the at large category receive a majority of all the votes cast for positions in that category, a runoff to fill the open position or positions shall be conducted among the persons receiving the highest number of votes cast, and the number of persons to be voted on in the runoff shall be twice the number of positions remaining to be filled.

16. When the Chairman of the Senate Committee on Higher Education and the Chairman of the House Committee on University Trustees have determined that the House of Representatives has chosen one member of the Board of Governors who is a Republican and three members of the Board of Governors from the at large category, the Chairman of the House Committee on University Trustees shall make a motion for the simultaneous election of those four persons by the House to the indicated positions. No further nominations may be made. The roll of the House then shall be called, and each Representative who is present shall vote "aye" or "no" on the motion of the Chairman. If a majority of those voting vote "aye," the persons whose names appear on the list shall be declared to have been elected.

17. When the election process is complete, the Chairman of the Senate Committee on Higher Education and the Chairman of the House Committee on University Trustees shall notify the Secretary of the Board of Governors of The University of North Carolina of the names of the persons elected by the General Assembly and the category from which each of them was elected.

Sec. 2. This resolution shall become effective upon ratification.

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In the General Assembly read three times and ratified, this the 26th day of April, 1973.

S. R. 836

RESOLUTION 76

A JOINT RESOLUTION OF COMMENDATION AND CONGRATULATIONS TO THE CITY OF WILSON ON ITS SELECTION AS AN "ALL-AMERICA" CITY.

Whereas, the City of Wilson competed with hundreds of cities and communities throughout the United States in the contest co-sponsored by the National Municipal League and the "Saturday Evening Post"; and

Whereas, Wilson has been selected as one of the eleven All-America cities in the United States for the year 1972; and

Whereas, Wilson won this national honor on the basis of intense citizen action to establish a more effective self-government; to insure justice and domestic tranquility; to provide economic growth, rights and opportunities; and to promote the general welfare by securing the blessings of liberty to all of its inhabitants by implementing into positive action the principles of Democracy; and

Whereas, Wilson has demonstrated to itself, the State, and the Nation that it has accepted its responsibility for community improvement through citizen action by recognizing and solving major community problems, to wit:

1. The annexation of 2600 acres of land in order to provide more than 2500 citizens of modest income with basic city services.

2. The passage of an 8.5 million dollar municipal bond issue, largest in Wilson's history, by an overwhelming margin to meet the city's growing needs for electrical, water, police and fire protection for the next two decades.

3. The completion of the Wilson-Greene Comprehensive Mental Health Center to provide complete services (including a 23-bed in-patient psychiatric unit) in the field of mental disorders and alcoholic addiction.

4. An all-out human environmental effort to promote a better understanding among the citizens of this community with the following accomplishments:

- a. The creation of a bi-racial Human Relations Department within the Police Department.

- b. The establishment of a "Crisis Center" and telephone referral system for persons in need of information or emergency service.

- c. A Youth Employment Service which utilizes young people to help others of their age to locate employment.

5. The organization of voluntary groups whose motives are to improve race relations by securing better job opportunities for negroes, mediating racial disputes, eliminating needless unequal situations and soothing racial prejudice through a better understanding of human problems, rights, and opportunities; and

Whereas, the actions of the citizens of Wilson reaffirm not only a desire for better government of this State, but an acknowledgment of the existence of our civil, political, and religious liberties together with corresponding obligations; and

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Whereas, an award will be officially presented to the City in ceremonies on April 25, 1973, at Wilson;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The City of Wilson, North Carolina, is hereby commended for the national recognition accorded it and for its achievement in self-government.

Sec. 2. The General Assembly hereby expresses its appreciation to the City of Wilson and recognizes it as an outstanding community of significant importance to the State of North Carolina, an "All-America", among the cities and communities of this Nation.

Sec. 3. A copy of this resolution shall be mailed to the officials of the City of Wilson.

Sec. 4. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of April, 1973.

H. R. 1221

RESOLUTION 77

A JOINT RESOLUTION COMMENDING THE VOCATIONAL INDUSTRIAL CLUBS OF AMERICA.

Whereas, the Ninth Annual State Convention of the Vocational Industrial Clubs of America is to be held in Wilmington, North Carolina, on April 26-29, 1973; and

Whereas, the North Carolina Association of the Vocational Industrial Clubs of America has a membership in excess of 10,000 outstanding State citizens, serving trade, industrial, technical and health occupations students with leadership, citizenship and character development programs and activities; and

Whereas, members in high school and post secondary school programs join the Vocational Industrial Clubs of America in civic, educational, and social activities which have developed social and leadership abilities in the youth of our State; and

Whereas, programs initiated and sponsored by the Vocational Industrial Clubs of America emphasize respect for the dignity of work, high standards in trade ethics, workmanship, scholarship and safety; and

Whereas, the activities carried on by the Vocational Industrial Clubs of America are supervised and administered by school officials throughout the State; and

Whereas, the outstanding and dedicated members of the Vocational Industrial Clubs of America have accepted the challenge of raising seventy-five thousand dollars (\$75,000) to build the first cottage of Girls Haven, to be located in Albemarle, North Carolina;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the members of the House of Representatives and the Senate congratulate the members of the Vocational Industrial Clubs of America and wish them well at the Ninth Annual State Convention to be held in Wilmington, North Carolina, on April 26-29, 1973.

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Sec. 2. That this resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of April, 1973.

H. R. 1263

RESOLUTION 78

A JOINT RESOLUTION FIXING THE TIME AND PLACE FOR A JOINT SESSION OF THE SENATE AND HOUSE OF REPRESENTATIVES TO ACT ON CONFIRMATION OF APPOINTMENTS MADE BY THE GOVERNOR TO MEMBERSHIP ON THE STATE BOARD OF EDUCATION.

Whereas, under the provisions of G.S. 115-2, appointments made by the Governor to membership on the State Board of Education are subject to confirmation by the General Assembly in joint session; and

Whereas, the Governor has submitted to the General Assembly a list of three appointments to membership on the State Board of Education;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the Senate and House of Representatives meet in joint session on Wednesday, the 2nd day of May, 1973, at 2:00 p.m., for the purpose of voting on confirmation of the appointments of the Governor to membership on the State Board of Education.

Sec. 2. This resolution shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of May, 1973.

S. R. 668

RESOLUTION 79

A JOINT RESOLUTION SUPPORTING ASHE AND ALLEGHANY COUNTIES, AND THE STATES OF NORTH CAROLINA, VIRGINIA AND WEST VIRGINIA IN OPPOSING THE CONSTRUCTION OF THE BLUE RIDGE PROJECT.

Whereas, Appalachian Power Company of Roanoke, Virginia, a wholly-owned subsidiary of American Electric Power Company of New York City, has filed an application before the Federal Power Commission requesting a license to construct two dams on the New River in the State of Virginia, the upper dam site to be about six miles downriver from the Virginia-North Carolina State Line and the lower dam site about eight miles downriver from where the river again crosses the North Carolina-Virginia State Line, both impoundments being partly in North Carolina and partly in Virginia, the water in the lower impoundment to be pumped back into the upper impoundment during the hours of minimum demand for power; and

Whereas, said upper lake or impoundment extends approximately 35 miles up the New River from the proposed upper dam site, taking in a segment of the river in Alleghany and extending approximately 15 miles up the North and South Forks of the river into Ashe County; and the lower impoundment would take in all the balance of the New River in Alleghany County of approximately six miles; and

Whereas, the New River is of great scenic value unmatched in the Eastern United States, is the last unpolluted and unspoiled river of its kind in the

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Eastern United States, is of great recreational value for canoeing, fishing and boating, resources for which are now rapidly disappearing; and

Whereas, said proposed impoundments would have a total water surface area of 40,000 acres, and vertical drawdown of 44 feet in the water level of the lower impoundment and 12 feet in the water level of the upper impoundment, thereby degrading and destroying the natural environment of a scenic and unspoiled river; and

Whereas, flat-water lakes already abound in the region, and we deem that huge lakes with drawdown are neither necessary nor desirable for recreation; and

Whereas, said project would result in the taking of some 60,000 acres in the two states, approximately one-third of said land being in North Carolina; and

Whereas, said taking from the people of North Carolina of their much-needed and valuable land in Ashe County and Alleghany County would benefit a power company which sells power in the States of Michigan, Indiana, Ohio, Kentucky, Tennessee and West Virginia, but would provide no significant economic benefits to the people of North Carolina; and

Whereas, the proposed project would cause over 3,000 people to lose their homes and farms;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the proposed use of the New River Valley in Northwestern North Carolina for the benefit of the people of the Midwestern United States would cause a great and perpetual hardship and loss to the people of the Northwestern section of the State.

Sec. 2. We do solemnly and vigorously protest any appropriation of the resources of the Northwestern section of our State for the sole benefit of the people of the Midwestern United States.

Sec. 3. We do solemnly and vigorously oppose the proposed Blue Ridge Project.

Sec. 4. We recommend to Governor Holshouser and Attorney General Morgan that they promptly and vigorously continue the opposition of this State against the proposal to construct the Blue Ridge Project.

Sec. 5. That copies of this resolution be filed with the Federal Power Commission, the Environmental Protection Agency, the U. S. Department of Interior, Appalachian Power Company of Roanoke, Virginia, and all members of the United States Senate and United States House of Representatives from North Carolina.

Sec. 6. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of May, 1973.

S. R. 702

RESOLUTION 80

A JOINT RESOLUTION ESTABLISHING A COMMISSION TO STUDY AND EVALUATE THE EXISTING SYSTEM OF DELIVERY OF STATE HEALTH CARE FOR MENTAL ILLNESS, MENTAL RETARDATION, ALCOHOLISM AND RELATED HEALTH PROBLEMS AND TO RECOMMEND AN IMPROVED SYSTEM FOR THE DELIVERY OF SUCH CARE TO MEET THE SHORT AND LONG TERM NEEDS OF THE CITIZENS OF NORTH CAROLINA.

Whereas, the effective delivery of State health care for mental illness, mental retardation, alcoholism and related health problems is essential to the physical and mental health and economic well-being of the citizens of North Carolina;

Whereas, delivery of State health care for mental illness, mental retardation, alcoholism and related health problems is provided to the citizens of North Carolina under the general supervision of the State of North Carolina, with primary responsibility vested in the Department of Human Resources;

Whereas, the State of North Carolina has not conducted a review or evaluation of the comprehensive mental health plan to provide for a statewide network of facilities, services, and programs that was completed in 1965 and which was to be the basis of the present system of delivery of State health care for mental illness, mental retardation, alcoholism, and related health problems;

Whereas, a comprehensive evaluation of the system of delivery of State health care for mental illness, mental retardation, alcoholism and related health problems can result in recommendations which will meet the long and short term needs of the citizens of North Carolina more effectively at lower cost;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. Commission created. There is hereby created a Commission to study and evaluate the existing system of delivery of State health care for mental illness, mental retardation, alcoholism and related health problems and to recommend an improved system for the delivery of such care to meet the short and long term needs of the citizens of North Carolina.

Sec. 2. Appointment of members. The Commission shall consist of eleven members. The Speaker of the House of Representatives shall appoint three members from the House of Representatives, one of whom shall be the Chairman of the Mental Health Committee of the House of Representatives. The President of the Senate shall appoint three members from the Senate, one of whom shall be the Chairman of the Mental Health Committee of the Senate. The Governor shall appoint five members. All members of the Mental Health Committees of the General Assembly and the Secretary of Human Resources, or some person designated by him, shall be ex officio members of the Commission.

Sec. 3. Organization of the Commission. The Governor shall appoint the Chairman of the Commission. The Commission at its first meeting shall select two Vice-Chairmen from its membership. The Chairman shall preside at all meetings, and in his absence one of the Vice-Chairmen shall act as Chairman.

Sec. 4. Compensation and expenses of members of the Commission. Members and ex officio members of the Commission who are members of the General Assembly shall receive subsistence and travel allowance, at the rate set forth in G.S. 120-3.1(b) and (c). Members and ex officio members of the

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Commission who are not employees of the State of North Carolina and who are not members of the General Assembly shall receive per diem compensation and travel expenses at the rate set forth in G.S. 138-5. Members and ex officio members of the Commission who are employees of the State of North Carolina shall receive travel allowances at the rate set forth in G.S. 138-6.

Sec. 5. Funding of the Commission. The Commission shall be funded from existing capital improvement appropriations made to the Department of Mental Health.

Sec. 6. Authority of the Commission to employ assistance. The Commission shall employ independent multi-skilled professional consulting services. Under the direction of the Commission, the consultants shall study and evaluate the existing system of delivery of State health care for mental illness, mental retardation, alcoholism and related health problems and shall make recommendations to the Commission for improvements in the delivery of such care to meet the long and short term needs of the citizens of North Carolina.

The Commission may employ consulting services in accordance with procedure adopted in conjunction with the Office of Purchase and Contract.

The Commission is further authorized to employ professional, technical and clerical assistance for itself and the consultants. The Commission may contract for such materials and services as are appropriate to the performance and execution of its duties.

With the consent of the Secretary or head of a State agency or department, staff personnel from the Department of Human Resources or any other State agency or department may be assigned or otherwise utilized to assist the Commission or the consultants. Upon the request of the Commission or the consultants, all State departments and agencies shall furnish the Commission or the consultants with any information in their possession.

Sec. 7. Additional authority of the Commission. Pursuant to its authority to study and evaluate the existing system of delivery of State health care for mental illness, mental retardation, alcoholism and related health problems and to recommend an improved system for the delivery of such care to meet the long and short term needs of the citizens of North Carolina, the Commission shall, in its discretion, be authorized

(1) to study and evaluate State, local and private delivery of health care for mental illness, mental retardation, alcoholism and related health problems;

(2) to study and evaluate social, legal, economic and other developments as they relate to the delivery of State health care for mental illness, mental retardation, alcoholism and related health problems;

(3) to study and evaluate State, local, and private administrative practices, management, and fiscal systems;

(4) to study and evaluate medical and supportive research programs;

(5) to study and evaluate any other subject which the Commission determines to be appropriate to its primary goal.

Sec. 8. Final report of findings and recommendations. The Commission shall prepare and deliver to the Governor, the Speaker of the House of Representatives, and the President of the Senate a report of its findings and recommendations on or before January 15, 1974, unless such time is extended by the Commission. Such report shall include the following: specific recommendations for improving the delivery of State health care for mental illness, mental retardation, alcoholism and related health problems; suggested

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means of implementing such recommendations; suggested means for continued reevaluation and improvement of the delivery of State health care for mental illness, mental retardation, alcoholism and related health problems; and any proposed legislation appropriate to carry out such recommendations.

Sec. 9. Interim reports and recommendations. The Commission may, at its discretion, make interim reports to the Governor, the members of the General Assembly, and the public.

Sec. 10. Termination of the Commission. The Commission shall terminate upon filing its final report with the Governor, the Speaker of the House of Representatives, and the President of the Senate.

Sec. 11. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of May, 1973.

H. R. 1300

RESOLUTION 81

A JOINT RESOLUTION HONORING THE FIFTH ANNUAL MARTIN LUTHER KING GAMES TO BE HELD IN DURHAM ON MAY 12.

Whereas, Dr. Martin Luther King, Jr., a citizen of the United States and the world, minister, educator, humanitarian and peacemaker died on April 4, 1968, in the prime of his life, a life dedicated to the service of his people, his country and the world; and

Whereas, Dr. Martin Luther King, Jr., expressed a dream that all men, regardless of race, creed or color, be given a fair chance in life, achieve success in their endeavors based on their individual efforts and merits, and be judged as equals; and

Whereas, the field of athletics provides a forum in which all participants are given a fair chance, all success is based on the individual efforts and achievements of the participants, and all are judged fairly and equally; and

Whereas, the City of Durham on May 12, 1973, is hosting an athletic event, a track and field competition, which is being held to commemorate the life and principles espoused by Dr. Martin Luther King, Jr., and in which participants from many states in this country and from many countries in the world will compete; and

Whereas, the General Assembly of North Carolina desires to express its warm approbation and support for this event and its purposes;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly recognizes and expresses its appreciation for the many years of service dedicated to mankind rendered by Dr. Martin Luther King, Jr., to his nation and the world.

Sec. 2. The General Assembly of North Carolina extends its warmest welcome to the participants in the Martin Luther King Games and wishes them good luck in the events in which they compete.

Sec. 3. The General Assembly of North Carolina extends its thanks and appreciation to the sponsors and officials of the Martin Luther King Games with the hope they will see fit to return the competition to North Carolina each year hence.

Sec. 4. A copy of this resolution shall be sent to the family of Dr. Martin Luther King, Jr.

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Sec. 5. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of May, 1973.

H. R. 1312

RESOLUTION 82

A JOINT RESOLUTION FIXING TIME AND PLACE FOR A JOINT SESSION OF THE SENATE AND HOUSE OF REPRESENTATIVES TO NOMINATE CANDIDATES FOR UNIVERSITY OF NORTH CAROLINA BOARD OF GOVERNORS.

Whereas, G.S. 116-6 requires that nominations to the Board of Governors of the University of North Carolina be made in joint session; and

Whereas, there are presently nine vacancies on the Board of Governors which must be filled by July 1, 1973;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the Senate and House of Representatives shall meet in joint session Thursday, May 10, 1973, at 2:00 p.m. for the purpose of selecting nominees to fill the vacancies on the Board of Governors.

Sec. 2. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of May, 1973.

S. R. 278

RESOLUTION 83

A JOINT RESOLUTION OPPOSING A BILL NOW PENDING IN CONGRESS TO REPEAL THE TAX EXEMPT PRIVILEGE ON STATE AND LOCAL GOVERNMENT BONDS.

Whereas, there is now pending in the United States House of Representatives a bill introduced by Representative James C. Corman of California, and others, the purpose of which is to repeal the tax-exempt privilege on state and local bonds issued after December 31, 1973; and

Whereas, such legislation places in jeopardy the hard-earned credit of state and local governments throughout the entire United States, and chills the initiative of those states and localities that have made determined efforts to refine and improve their fiscal policies and procedures; and

Whereas, the bright prospect of an era of independent partnership among the federal, state and local governments becomes an empty illusion if the federal government, under the provisions of the aforesaid bill, assumes a dominant role in all public financing, which will be the case if the Congress should choose to lay this substantial tax burden upon state and local securities; and

Whereas, the mere threat of such legislation has a very disturbing effect upon the market for state and local securities; and

Whereas, the Governor of North Carolina and the State Treasurer have publicly and forcefully stated their opposition to such bill, thereby announcing their staunch support of sound state and local government fiscal policies;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

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Section 1. That the Ways and Means Committee of the United States House of Representatives should support sound state and local government by reporting the aforesaid bill unfavorably.

Sec. 2. That the Congress of the United States should support sound state and local government by defeating the aforesaid bill.

Sec. 3. That all Congressmen and Senators representing North Carolina in Congress should use their best efforts to insure the defeat of said bill.

Sec. 4. That a copy of this resolution be forwarded to the Chairman and all members of the House Ways and Means Committee, and to all Congressmen and Senators representing North Carolina in Congress.

Sec. 5. That a copy of this resolution be forwarded to the President of the United States.

Sec. 6. This resolution shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 10th day of May, 1973.

H. R. 283

RESOLUTION 84

A JOINT RESOLUTION FOR THE GENERAL ASSEMBLY
CONSTITUTING UNITS OF THE EXISTING STATE PARK SYSTEM
AND STATE HISTORIC SITES AS PARTS OF THE STATE NATURE
AND HISTORIC PRESERVE.

Whereas, the General Assembly of North Carolina enacted in 1971 Senate Bill 96, an amendment to the Constitution providing for the protection of natural resources; and

Whereas, on November 7, 1972, the people overwhelmingly ratified this constitutional amendment; and

Whereas, to accomplish its public purposes, the amendment states that "the State and its counties, cities and towns, and other units of local government may acquire by purchase or gift properties or interests in properties which shall, upon their special dedication to and acceptance by resolution adopted by a vote of three-fifths of the members of each house of the General Assembly for those public purposes, constitute part of the 'State Nature and Historic Preserve';" and

Whereas, the lands and waters of the existing State Park System and the existing State historic sites are administered by the State for purposes consistent with the aforementioned constitutional amendment; and

Whereas, the Council of State has dedicated certain lands and waters to the State Nature and Historic Preserve;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly accepts the lands and waters within the boundaries of presently existing units of the State Park System and hereby declares them as parts of the State Nature and Historic Preserve.

Sec. 2. The General Assembly accepts the lands and waters within the present boundaries of the Alamance Battleground State Historic Site, Alamance County; Governor Charles B. Aycock Birthplace State Historic Site, Wayne County; Bath State Historic Site, Beaufort County; Bentonville Battleground State Historic Site, Johnston County; Brunswick Town State Historic Site, Brunswick County; Governor Richard Caswell State Historic Site, Lenoir

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County; House in the Horseshoe State Historic Site, Moore County; James Iredell House State Historic Site, Chowan County; C.S.S. Neuse State Historic Site, Lenoir County; President James K. Polk Birthplace State Historic Site, Mecklenburg County; Somerset Place State Historic Site, Washington County; Town Creek Indian Mound State Historic Site, Montgomery County; Governor Zebulon B. Vance Birthplace State Historic Site, Buncombe County; and hereby declares them as parts of the State Nature and Historic Preserve.

Sec. 3. Nothing in this resolution shall be construed as preventing the Department of Natural and Economic Resources and the Department of Art, Culture and History from carrying out normal maintenance or improvement of existing structures or facilities, provided that said maintenance or improvement is appropriate to, and consistent with, the purpose for which the property was obtained, in the areas respectively administered by them.

Sec. 4. This resolution shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 10th day of May, 1973.

H. R. 353

RESOLUTION 85

A JOINT RESOLUTION URGING THAT CONGRESS DEFEAT LEGISLATION THAT WOULD REPEAL THE TAX EXEMPT STATUS OF STATE AND MUNICIPAL BONDS.

Whereas, legislation has been introduced in the Congress of the United States that would repeal the tax exempt privilege on all state and local bonds; and,

Whereas, this legislation would place in jeopardy the hard earned credit of state and local governments throughout the nation; and,

Whereas, the imposition of a federal tax on these bonds would tend to chill the initiative of the states and localities, especially those that have made a determined effort to refine and improve their fiscal policies; and,

Whereas, through the device of a subsidy, this legislation would cause the federal government to assume the dominant role in all public financing and would, in fact, centralize the final approval of all state and local borrowing in Washington;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly of North Carolina urges the Congress of the United States, especially the members of the North Carolina delegation, to work for the defeat of this legislation.

Sec. 2. That copies of this resolution be sent to the Honorable Wilbur Mills, Chairman of the Ways and Means Committee of the House of Representatives and to the members of the North Carolina delegation in the Congress of the United States.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of May, 1973.

S. R. 586

RESOLUTION 86

A JOINT RESOLUTION COMMENDING THE NORTH CAROLINA SUMMER FESTIVAL TO BE HELD IN WINSTON-SALEM FROM JUNE 27 TO AUGUST 4, 1973.

Whereas, the North Carolina Summer Festival will present, for the enjoyment of all North Carolinians, musicals, concerts, chamber music, dances, and films; and

Whereas, the musicals to be presented are "My Fair Lady", "1776", "The Merry Widow", and "Man of La Mancha"; and

Whereas, the concerts will be performed by the North Carolina Festival Orchestra, prior to a four week concert tour of Europe; and

Whereas, the chamber music will be presented by the Piedmont Chamber Players; and

Whereas, the dances will be performed by Winston-Salem's own North Carolina Dance Theatre, the Southeast's most exciting dance company; and

Whereas, the films will be shown by the North Carolina Festival Film Theatre and will consist of 18 evenings of modern, foreign, and classic film favorites; and

Whereas, this summer season from June 27 to August 4, 1973, is the inaugural season for the North Carolina Summer Festival;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the General Assembly of North Carolina congratulates and commends the North Carolina Summer Festival for the exciting summertime enjoyment that it will bring to all North Carolinians.

Sec. 2. That June 27, 1973, shall be designated as "North Carolina Summer Festival Day."

Sec. 3. That a copy of this resolution shall be furnished to the North Carolina Summer Festival.

Sec. 4. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of May, 1973.

S. R. 745

RESOLUTION 87

A JOINT RESOLUTION COMMEMORATING THE LIFE AND MEMORY OF W. KERR SCOTT, FORMER GOVERNOR AND U.S. SENATOR FROM NORTH CAROLINA.

Whereas, the Honorable W. Kerr Scott, known affectionately as "the Squire of Haw River", was born on April 17, 1896; and

Whereas, he excelled as a student of Agriculture at North Carolina State College, now North Carolina State University, graduating with honors in 1917, and later receiving many honors and distinctions as a farm leader in Alamance County, the State and the nation; and

Whereas, in the capacity of this leadership, he established the largest 4-H Registered Jersey Calf Club in the world, became Master of the North Carolina Grange, was appointed by President Franklin D. Roosevelt as Regional Director of the newly created Farm Debt Adjustment Administration, which

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encompassed seven southern states, and for eleven years held with honor the post of North Carolina Commissioner of Agriculture; and

Whereas, his marriage in 1919 to Mary Elizabeth White, known famously as "Miss Mary", one of the most beloved women this State has ever known, helped in many ways to enhance his success and whose contributions to the welfare and the enrichment of the lives of so many people continued on after his death; and

Whereas, his election to the governorship in 1948, led to the introduction of his "Go Forward Program", which proposed more money for "expanded assistance to the aged, dependent, and handicapped, for more hospital and public health service, for more schools and higher pay for teachers, for more dormitories, laboratories, and classrooms at the universities, and for better care of the mentally sick"; and

Whereas, at the conclusion of his administration, W. Kerr Scott could review a list of accomplishments to include 14,810 miles of paved roads, 8,000 new classrooms, 175 gymnasiums, 350 school lunchrooms, 398 new industrial plants, a \$550,000 annual appropriation for a statewide school public health program, permanent improvements provided at mental, tubercular, orthopedic and community hospitals, 31,000 rural telephones, and 153,000 new electric connections in rural areas; and

Whereas, in 1954, he was elected to represent North Carolina in the United States Senate, where he served with distinction until his death on April 16, 1958;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly of North Carolina herewith expresses its deep appreciation and gratitude for the impact, spiritual, moral, material, and political, that this restless, vision-endowed agricultural leader-statesman made on the future of his native North Carolina, which he visualized as forever going forward.

Sec. 2. The Secretary of State is hereby directed to prepare and deliver certified copies of this resolution to the immediate past Governor Robert W. Scott, Senator Ralph Scott, and other members of the family.

Sec. 3. This resolution shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 11th day of May, 1973.

S. R. 866

RESOLUTION 88

A JOINT RESOLUTION HONORING MAJOR WILLIAM HENRY HARDY, UNITED STATES ARMY, UPON HIS RETURN TO THE UNITED STATES FROM NORTH VIETNAM WHERE HE WAS HELD AS A PRISONER OF WAR FOR ALMOST SIX YEARS.

Whereas, Major William Henry Hardy, son of Mrs. Delphia Hardy, attended W. H. Robinson Union School in Winterville, North Carolina, and graduated second in a class of twenty-four students in 1950; and

Whereas, Major William Henry Hardy immediately entered Agricultural and Technical College in the Fall of 1950, where he was an honor student each semester with a major in Agriculture; and

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Whereas, Major William Henry Hardy, while at Agricultural and Technical College became a member of the Phi Beta Sigma Fraternity and the Scaba Blade, which is an R.O.T.C. Fraternity; and

Whereas, Major William Henry Hardy graduated from Agricultural and Technical College in 1954 as a Second Lieutenant in the United States Army; and

Whereas, Major William Henry Hardy upon graduation from Agricultural and Technical College, began his extensive military career where he obtained his basic training expertise at Fort Bragg, North Carolina and spent three years stationed at Fort Jackson, South Carolina, after which he spent two years as an instructor at an Army Service School at Fort Devens, Massachusetts; and

Whereas, Major William Henry Hardy has served eleven years overseas with three years in the cold terrain of Germany, one year in Korea, one year on the coast of Turkey and almost six years in the monsoon jungles as a prisoner of Vietnam; and

Whereas, Major William Henry Hardy was captured on June 30, 1967, when he and a company under his command were abducted in an enemy ambush on a road leading from Saigon, South Vietnam, and for five and three-fourths years of his captivity was placed in solitary confinement unable to communicate with anyone; and

Whereas, as a result of the recently signed peace agreement, Major William Henry Hardy was released and has returned to the United States and North Carolina;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the General Assembly of the Great State of North Carolina does at this time wish to pay tribute to a brave North Carolinian, Major William Henry Hardy, and his family for making such a great sacrifice in the interest of freedom.

Sec. 2. That this resolution shall become a part of the permanent records of the 1973 Session of the General Assembly of North Carolina and copies shall be duly certified by the Secretary of State and forwarded to Major William Henry Hardy, his wife, Theola Johnson Hardy, and his mother, Mrs. Delphia Hardy, of Winterville, North Carolina.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of May, 1973.

H. R. 1261

RESOLUTION 89

A JOINT RESOLUTION HONORING PRESIDENT STACY WEAVER OF METHODIST COLLEGE AT FAYETTEVILLE, NORTH CAROLINA, UPON HIS RETIREMENT ON JUNE 30, 1973.

Whereas, Dr. Stacy Weaver has served as President of Methodist College, a four-year church supported institution of higher learning, located in the rapidly growing Cumberland County area, since its founding in 1960; and

Whereas, Methodist College, with a student enrollment of over 700, of which eighty percent (80%) are students from North Carolina, has attained a position of high regard in the field of higher education in North Carolina; and

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Whereas, Dr. Stacy Weaver, whose quiet determination and Christian dedication, has led in the development of said institution and whose influence as a Christian statesman, whose unwavering integrity and leadership, has gained the financial and moral support of the North Carolina Conference of the United Methodist Church; and

Whereas, the City of Fayetteville and County of Cumberland desire to honor Dr. Stacy Weaver for his dedication and loyalty to our community and to the young people of Southeastern North Carolina.

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly extends its thanks and best wishes to Dr. Stacy Weaver upon his retirement.

Sec. 2. That a copy of this resolution, duly certified by the Secretary of State, shall be sent to Dr. Stacy Weaver.

Sec. 3. This resolution shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 14th day of May, 1973.

H. R. 1323

RESOLUTION 90

A JOINT RESOLUTION COMMENDING THE WEST EDGECOMBE SCHOOL BASKETBALL TEAM.

Whereas, the West Edgecombe School Basketball Team during the 1972 season won 24 games and lost only 5; and

Whereas, said basketball team was the winner of the Class 1A State Championship; and

Whereas, James T. Lamm, Coach of the West Edgecombe School Basketball Team, was named Coach of the Year in the Wilson, Edgecombe, Wayne and Johnston Counties Conference; and

Whereas, two members of the West Edgecombe School Basketball Team, Donnie Smith and Richard Battle, were selected for all-conference honors; and

Whereas, in establishing these records said basketball team has demonstrated that it is a team of outstanding sportsmanship as well as uncommon ability;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring, that:

Section 1. The West Edgecombe School Basketball Team in general, and in particular its coaches, Head Coach James T. Lamm and Assistant Coach Johnnie R. Wadsworth, and the members of the Team, Richard Battle, Eddie Bell, Gerald Jenkins, Cliff Lee, Billy Owens, Glennis Perry, Charlie Pittman, Rodney Price, Ronnie Ricks, Chester Sampson, Donnie Smith, Benard Tillery, Keith Walker and Alton Weston, are hereby commended for their splendid basketball ability and success in winning the Class 1A State Championship.

Sec. 2. A copy of this resolution duly certified by the Secretary of State shall be forwarded to Head Coach James T. Lamm and Assistant Coach Johnnie R. Wadsworth, and to each member of the West Edgecombe School Basketball Team.

Sec. 3. This resolution shall become effective upon ratification.

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In the General Assembly read three times and ratified, this the 14th day of May, 1973.

H. R. 726

RESOLUTION 91

A JOINT RESOLUTION TO DIRECT THE LEGISLATIVE RESEARCH COMMISSION TO STUDY CERTAIN PHASES OF THE RETIREMENT SYSTEM AND TO REPORT TO THE 1974 SESSION OF THE GENERAL ASSEMBLY.

Whereas, the Statutes governing the Teachers' and State Employees' Retirement System and the Local Governmental Employees' Retirement System do not permit credit toward retirement for military service unless the member was on military leave from his position as a State employee, teacher, or local governmental employee before entering military service; and

Whereas, said statutes do not permit employees to repay contributions which they have voluntarily withdrawn from the System and thereby reclaim service lost by the withdrawal; and

Whereas, said statutes do not permit credit for service performed outside the State of North Carolina; and

Whereas, there is interest on the part of some employees in amending the Retirement Acts with respect to these matters,

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Legislative Research Commission be authorized and directed to study, or cause to be studied, these and other concerns of active and retired employees and to submit its report and recommendations to this General Assembly not later than February 1, 1974. The recommendations relating to the three cited concerns shall be specific and separate and shall include a draft of any legislation which might be proposed.

Sec. 2. Concerned departments, agencies, and institutions of State and local government, together with representatives of active and retired State employees, teachers, and local governmental employees having an interest in these matters, be given opportunity to participate in the study as the Legislative Research Commission may deem pertinent to the issues.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of May, 1973.

H. R. 1085

RESOLUTION 92

A JOINT RESOLUTION COMMENDING THE EFFORTS OF THE CUMBERLAND COUNTY UNITED EFFORT FOR DRUG AND ALCOHOL REHABILITATION.

Whereas, the problems of alcohol and alcohol addiction are prevalent throughout every geographic area of our State; and

Whereas, the problems of drugs and drug abuse are prevalent throughout every geographic area of our State; and

Whereas, many of the private citizens of our State have formed community action groups to fight alcohol and drug abuse; and

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Whereas, various civic minded citizens of Cumberland County have banded together to fight alcohol and drug abuse; and

Whereas, DARE (Drug and Alcohol Rehabilitation Experiment) has been established in Cumberland County by the Myrover/Reese Fellowship Home, the B'Nai Brith, the Fayetteville Junior Woman's Club, the Cumberland County Mental Health Center, the Fayetteville Cumberland County Youth Council, and Alcoholics Anonymous of Cumberland County; and

Whereas, DARE has adopted an ambitious program for the construction of physical facilities necessary to provide the specialized environment treatment and counselling needed by the alcohol/drug addict;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. DARE and its components is to be heartily commended for development of its plan for the building of a residential community for alcohol and drug addicts.

Sec. 2. The General Assembly of North Carolina hereby acknowledges its deep appreciation to the citizens of Cumberland County for the outstanding endeavors made through DARE.

Sec. 3. The General Assembly of North Carolina wishes DARE every success in the building of its residential community for alcohol and drug addicts.

Sec. 4. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. R. 1106

RESOLUTION 93

A JOINT RESOLUTION AUTHORIZING AND DIRECTING THE APPROPRIATE COMMITTEE TO STUDY NORTH CAROLINA'S MEDICAL FACILITIES AND PERSONNEL NEEDS AND THE MEASURES NECESSARY TO PROVIDE ADEQUATE MEDICAL CARE TO ALL CITIZENS OF THE STATE.

Whereas, one of the ultimate goals of our society is the affording to every citizen of North Carolina the greatest possible opportunity for a full, happy, healthy and productive life; and

Whereas, the reduction of pain, sickness and human physical suffering is an absolute prerequisite to achieving this goal; and

Whereas, the number of persons suffering from illnesses and infirmities can be reduced only by insuring that adequate medical observation, treatment and services be made available in all geographic areas to individuals of all ages and at all economic levels; and

Whereas, there presently exists overall shortages in other health-care facilities as well as in medical and health-care personnel, including doctors, nurses, pharmacists, para-medical, and medical technicians; and

Whereas, the difficulties encountered in affording adequate observation, treatment and medical services to all citizens of North Carolina is compounded by the unequal distribution of professional and trained medical personnel and facilities in rural and small town areas as compared to metropolitan areas; and

Whereas, the General Assembly desires to fulfill its obligation to the citizens of North Carolina to take whatever action is necessary and appropriate in order to solve the problems involved in making available sufficient medical

personnel and facilities to guarantee to all North Carolina citizens the healthy and productive lives to which they are entitled;

Now, therefore, be it resolved by the House of Representatives the Senate concurring:

Section 1. This matter is referred to the appropriate committee of the House of Representatives and Senate for study of the problems involved and make specific recommendations as to necessary remedial actions.

Sec. 2. The committee to which this matter is referred is hereby authorized and directed to make a comprehensive, detailed and exhaustive study of the needs for medical facilities and professional and technically trained medical personnel in North Carolina. This study shall include an analysis of the existing deficiencies and shortages of professional and trained medical personnel, educational and medical needs and facilities, as well as determinations as to the measures necessary to alleviate these shortages and eliminate these deficiencies. The committee shall also explore methods, including but not limited to medical training programs and community health clinics, calculated to provide the optimum in medical care to all citizens of North Carolina regardless of their geographic locations or of their financial ability to pay therefor. The study shall be coordinated with the Commission created pursuant to House Bill 1080.

Sec. 3. The committee shall report its findings and recommendations to the appropriate leaders of the House of Representatives and the Senate at the earliest possible date, but, in any event, no later than the first day of December, 1973.

Sec. 4. This resolution shall become effective upon its adoption.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. R. 1113

RESOLUTION 94

A JOINT RESOLUTION HONORING LT. COMMANDER WILSON DENVER KEY, UNITED STATES NAVY, UPON HIS RELEASE AS A POW IN NORTH VIETNAM WHERE HE WAS HELD IN CAPTIVITY FOR OVER FIVE YEARS.

Whereas, the General Assembly of North Carolina realizes that freedom is not simply a gift, but rather a stewardship and must often be defended by those who would choose to be free; and

Whereas, the United States of America, the greatest free nation in history, has had to assume much of the difficult role of preserving the freedom throughout the world; and

Whereas, our recent involvement in Southeast Asia has resulted in three of our Presidents having committed our armed forces to aid these people in the preservation of their freedom; and

Whereas, many thousands of young men and women have answered the call to leave their families, their jobs and put their futures and even their lives in peril in an effort to assist freedom-loving people; and

Whereas, Lt. Commander Wilson Denver Key, a pilot in the United States Navy, did willingly make the sacrifice to assist these people; and

Whereas, Lt. Commander Wilson Denver Key did fly combat missions over North Vietnam from May 11, 1967, to November 17, 1967; and

Whereas, his plane was shot down on November 17, 1967; and

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Whereas, Lt. Commander Wilson Denver Key was captured as a prisoner of war by the North Vietnamese; and

Whereas, Lt. Commander Wilson Denver Key remained a prisoner of war until his release March 14, 1973; and

Whereas, the family of Lt. Commander Wilson Denver Key, his wife, Alece Haynes Key, and son, Brian Key, have made a terrible sacrifice in the interest of freedom; and

Whereas, the family of Lt. Commander Wilson Denver Key have been reunited;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly of the great State of North Carolina does at this time wish to pay tribute to a brave North Carolinian, Lt. Commander Wilson Denver Key, and his family for making such a great sacrifice in the interest of freedom.

Sec. 2. That this resolution shall become a part of the records of the 1973 Session of the General Assembly of North Carolina and copies shall be duly certified by the Secretary of State and transmitted by Representative John W. Brown for transmittal to Lt. Commander Wilson Denver Key.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. R. 1170

RESOLUTION 95

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF NOAH POWELL, CHIEF OF THE EASTERN BAND OF CHEROKEE INDIANS.

Whereas, Noah Powell, principal chief of the Eastern Band of Cherokee Indians, died unexpectedly at his home on April 4, 1973, at the age of 67, after a long and dedicated life devoted to the service and welfare of Cherokee Indians in North Carolina, it is fitting that the General Assembly of North Carolina should take note of and honor some of his contributions to the Eastern Band of Cherokee Indians and the people of North Carolina;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That Noah Powell was born in the Big Cove community on March 11, 1906, attended the old Cherokee boarding school, and was known as one of the outstanding basketball players in the mountain area during his high school years. Following his graduation and a brief residence in Pennsylvania, he returned to Cherokee in 1929 and married Miss Emma Washington, who died in 1969.

In 1940, Noah Powell was elected to the Cherokee Tribal Council, and two years later he started driving a school bus for the Bureau of Indian Affairs.

In 1943, Noah Powell resigned from the Cherokee Tribal Council and gave up his bus driving job to enter the United States Army where he saw combat duty in 1944 and 1945 in the European Theater of Operations.

Noah Powell returned to Cherokee in 1945 where he worked as a school bus driver and maintenance man for the Bureau of Indian Affairs until 1964,

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and subsequently went to work for the Cherokee Boys Club as bus driver and supervisor of the Cherokee fishing program. As a result of an outstanding driving record, Noah Powell received an award from the National Safety Council for driving one million miles without an accident.

In 1965, Noah Powell was elected again to the Cherokee Tribal Council and two years later he was elected vice-chief of the tribe. On the death of Chief Walter Jackson in April, 1971, Noah Powell became chief and served out Jackson's unexpired term. In 1971, Noah Powell was elected chief of the Eastern Band of Cherokee Indians.

During Noah Powell's years as chief, this great, respected and beloved leader worked quietly to bring progress to the reservation and a better life for his people. He was a principal mover in bringing about the Community Action Program and in getting the new Qualla Civic Center. He worked hard to bring new housing and educational facilities and to promote economic development among his people.

Noah Powell was a proud Indian leader who believed in sitting down and settling differences at the council table, rather than by violent means.

Sec. 2. That the North Carolina General Assembly recognizes and expresses its appreciation for the services rendered by Noah Powell to the Eastern Band of Cherokee Indians, services which have contributed greatly to the betterment of North Carolina.

Sec. 3. That the Secretary of State shall cause a certified copy of this resolution to be transmitted to the Cherokee Tribal Council.

Sec. 4. That this resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. R. 1173

RESOLUTION 96

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF ROMULUS ALONZO WHITAKER, FORMER MEMBER OF THE SENATE FROM LENOIR.

Whereas, the General Assembly was deeply saddened to hear of the death of Romulus Alonzo Whitaker on April 6, 1973; and

Whereas, Romulus Alonzo Whitaker gave tirelessly of his time and effort for the good of the State, serving the Counties of Carteret, Craven, Greene, Jones, Lenoir and Onslow for two terms in the State Senate in 1945 and 1947; and

Whereas, he was born in Trenton, North Carolina, November 11, 1890, and was a graduate of Trinity College (now Duke University), where he was a member of Kappa Sigma Fraternity, and where he subsequently attended Law School; and

Whereas, he was an eminent practicing attorney of Lenoir County, having been licensed to practice law in 1915, being the senior member of the law firm of Whitaker, Jeffress, and Morris of Kinston, North Carolina, and was a member of the North Carolina State Bar and of the American, North Carolina and Lenoir County Bar Associations; and

Whereas, he served the business interest of his community as member, president, and director of the Chamber of Commerce and as National Counselor to the U.S. Chamber of Commerce; and

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Whereas, he served his Alma Mater as president of the General Alumni Association of Duke University from 1943 to 1946; and

Whereas, he further served his community, State and nation by serving in the Air Service in World War I, by acting as Judge of City Records Court and City Attorney, by serving as a member of the North Carolina State Board of Public Welfare, and as chairman of the Lenoir County Welfare Board; and

Whereas, he has faithfully served the Methodist Church as a member of the Board of Stewards for many, many years; and

Whereas, he has exemplified the spirit of Brotherhood through his membership in the Masons, the Shrine, the Elks, and the American Legion; and

Whereas, he and Clara Eoline Padrick were married on the 25th day of November, 1919, and to this union were born two children, Romulus Alonzo Whitaker, Jr., and Neva Bidgood Whitaker; and

Whereas, it is the desire of the General Assembly of North Carolina to honor the memory of Romulus Alonzo Whitaker and to express its sympathy to his family at his death;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly of North Carolina expresses its deep appreciation for the life and accomplishments of Romulus Alonzo Whitaker and for the great service he rendered to the nation, the State of North Carolina, the County of Lenoir and the City of Kinston.

Sec. 2. That the General Assembly extends its deepest sympathy to the family of Romulus Alonzo Whitaker for the loss of its distinguished member.

Sec. 3. That his resolution shall become a part of the public records of this Session of the General Assembly and copies of this resolution shall be certified by the Secretary of State and transmitted to Mrs. Clara E. Whitaker, Mr. R. A. Whitaker, Jr., and Mrs. Neva B. Wallace.

Sec. 4. That this resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. R. 1184

RESOLUTION 97

A JOINT RESOLUTION DIRECTING A STUDY OF NORTH CAROLINA SMALL WATER AND SEWER SYSTEMS TO INVESTIGATE AND PROPOSE LEGISLATION TO THE GENERAL ASSEMBLY RELATING TO THE REGULATION OF SMALL WATER AND SEWER SYSTEMS IN NORTH CAROLINA.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The presiding officers of the House and Senate shall select one of the interim standing committees to be working during the upcoming interim period and instruct such committee to conduct a study of North Carolina small water and sewer systems. Such Legislative Committee shall have available for its work the facilities, staff and resources of the Utilities Commission, the State Board of Health, the Office of Water and Air Resources, the State Planning Division of the Department of Administration, the Department of Justice, city and county governments, sanitary districts and the State Planning and Development Regions.

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Sec. 2. The Committee shall investigate and study the problems arising from small water and sewer systems serving real estate subdivisions, trailer parks and other areas served by small water and sewer systems located outside of municipal limits and not served by municipal or county or sanitary district water and sewer services, including the resources and ability of said small water and sewer systems to meet adequate health and sanitary standards, to provide proper maintenance and replacement, to respond to complaints, to continue to provide adequate service to the public after their present physical plants are no longer serviceable, and the means to bring existing substandard systems up to adequate standards, and to propose legislation to the General Assembly to assure safe, adequate and continued service of small water and sewer systems to subdivisions, trailer parks and other areas served by such systems and not having water or sewer service from city or county governments or sanitary districts.

Sec. 3. The Committee to be studying North Carolina Small Water and Sewer Systems shall study and propose legislation on all small water and sewer system matters coming to its attention, including, but not limited to, the following:

(a) Methods for protection of the public buying homes and lots in subdivisions and areas not served by city or county or sanitary district water and sewer service, including requirements for personal notice to each such buyer as to the size and financial resources of the water and sewer utility serving the lot or house sold to such person.

(b) Development of requirements for perpetual care of small water and sewer systems serving areas without city, county or sanitary district water and sewer service, including provisions that owners of small water and sewer companies shall set aside depreciation expenses or other charges into escrow accounts under appropriate perpetual care provisions to insure that said small water and sewer companies shall continue to provide service on a perpetual basis.

(c) Provide procedures for appointment of receivers or trustees of small water or sewer companies that are not financially able to provide adequate water and sewer service to customers of said water and sewer companies, and who have suspended service, or whose franchise as a public utility has been cancelled by the Utilities Commission for cause after notice and hearing, and to provide funding through assessment of customers, or otherwise, for continued operation of said water and sewer companies in the hands of a trustee or receiver, or other appropriate authority.

(d) To establish requirements and programs for the planning of area-wide water and sewer systems, as a part of the planning activities of the official 17 State Planning and Development Regions established under State law.

(e) Regulation of municipal water and sewer services and rate changes into areas outside municipalities with reference to level of services and cost justification and related matters.

Sec. 4. The Committee shall report to the General Assembly in January, 1974. The report shall include investigations and studies and recommendations and proposals for legislation as provided in this act.

Sec. 5. This resolution shall be in full force and effect from and after May 11, 1973.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. R. 1233

RESOLUTION 98

A JOINT RESOLUTION DIRECTING THE STATE DEPARTMENT OF SOCIAL SERVICES AND THE EMPLOYMENT SECURITY COMMISSION OF NORTH CAROLINA TO SEEK TO REDUCE TIME INVOLVED IN PAPER WORK AND ADMINISTRATIVE PROCEDURES UNDER THE AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM, INCLUSIVE OF THE WORK INCENTIVE PROGRAM, AND TO REPORT TO THE 1974 GENERAL ASSEMBLY.

Whereas, for the fiscal year 1973 the State has a goal of placing 2,459 Aid to Families With Dependent Children recipients in jobs or in job training under the Work Incentive Program provided for by G.S. 108-39.1 and by federal statutes; and

Whereas, in order to meet the goal of 2,459 placements, it will be necessary for a total of approximately 200,000 forms to be completed by or for the State Department of Social Services and the Employment Security Commission of North Carolina; and

Whereas, it appears that the work involved in the completion of forms and other paper work, under the Aid to Families With Dependent Children Program, inclusive of the Work Incentive Program, has become so complicated and time consuming that such work occupies more staff time than does staff work for the purpose of actually meeting the needs of people;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the State Department of Social Services and the Employment Security Commission of North Carolina are directed to take such steps as are necessary to reduce, to the greatest possible extent, the time and effort involved in the completion of forms and papers and various administrative procedures, to the end that less time may be spent in working with individual recipients of, and applicants for, public assistance under the Aid to Families With Dependent Children Program, inclusive of the Work Incentive Program.

Sec. 2. That during January 1974, the Department of Social Services and the Employment Security Commission shall report to the General Assembly concerning their efforts and progress in fulfilling the objectives described in Section 1 of this resolution.

Sec. 3. This resolution shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. R. 1240

RESOLUTION 99

**A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF
FREDERICK BAYS McCALL.**

Whereas, the General Assembly was deeply saddened to learn of the death on April 8, 1973, at the age of 79, of Frederick Bays McCall, distinguished legal scholar and retired Professor of Law at the University of North Carolina School of Law; and

Whereas, Frederick Bays McCall was a native of Charlotte, was graduated from the University of North Carolina at Chapel Hill in 1915, attended Columbia University, and received his LL.B. degree from the Yale Law School; and

Whereas, Frederick Bays McCall served as a teacher of Latin and as principal of Charlotte High School prior to beginning his forty-one-year tenure on the faculty of the University of North Carolina; and

Whereas, Frederick Bays McCall crowned three years of teaching in the University's College of Arts and Sciences with a glorious thirty-eight-year career as Professor of Law in the University's School of Law; and

Whereas, Frederick Bays McCall, along with M. T. Van Hecke, Robert H. Wettach, Albert Coates, M. S. Breckenridge, John Dalzell and Frank W. Hanft, as teachers of law, distinguished themselves and became known in the lore of the law school as "The Great Seven"; and

Whereas, Frederick Bays McCall was known to generations of his students as a polite and sensitive teacher whose love for the law and its teaching was nearly equalled by his love for good humor, for puns and for their artful telling; and

Whereas, upon Frederick Bays McCall's retirement from the faculty of the law school in 1964, the students dedicated to him a special issue of the "North Carolina Law Review" containing an article entitled "Thank you very much, Gentlemen, that will be all for today" - these being the words he always used to close his daily classes; and

Whereas, Frederick Bays McCall merged his love and knowledge of the law with his love for the people of the State of North Carolina into a public service career marked by his relentless efforts to revise and reform the North Carolina laws governing the passage of property upon death intestate and the administration of decedents' estates; and

Whereas, his untiring efforts bore fruit in the enactment of the Intestate Succession Act in 1959, the enactment of the Estates of Missing Persons Act in 1965 and the presentation to the 1973 General Assembly of a monumental revision of the statutes relating to the administration of decedents' estates; and

Whereas, a great deal of Frederick Bays McCall's work in the area of statutory revision was done as Chairman, Vice-Chairman and member of the General Statutes Commission's Drafting Committee for the Revision of the Laws Relating to the Administration of Decedents' Estates during the 16 years beginning in 1957 and ending with his death; and

Whereas, Frederick Bays McCall was a talented man whose interests were as broad as his influence; and

Whereas, Frederick Bays McCall was an accomplished musician who devoted 40 years of his life to the University Symphony Orchestra as tympanist; and

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Whereas, Frederick Bays McCall was an accomplished baseball player in his youth and a devoted fan of the baseball team and the other athletic teams of the University of North Carolina; and

Whereas, Frederick Bays McCall was a noble and courtly gentleman of superior intellect and ability possessed of talents as broad and as varied as his interests and his knowledge; and

Whereas, he set a high standard of unselfish devotion for the betterment of his fellow citizens and the laws which govern them during his long and successful career;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That in the death of Frederick Bays McCall the State of North Carolina has lost a most able, useful and loyal citizen.

Sec. 2. That the General Assembly does hereby express its sincere appreciation and gratitude for the life and services of Frederick Bays McCall as a citizen and public servant of North Carolina.

Sec. 3. That the General Assembly extends its deepest sympathy to the family of Frederick Bays McCall, his widow, Adeline McCall, to his brothers, Johnston V. McCall and Robert N. McCall, and to his sister, Mrs. Isabelle Christianson, in their loss.

Sec. 4. That a copy of this resolution shall be certified by the Secretary of State and transmitted to the widow of Frederick Bays McCall.

Sec. 5. That this resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. R. 1244

RESOLUTION 100

A JOINT RESOLUTION AUTHORIZING AND DIRECTING THE PUBLIC HEALTH COMMITTEE IN THE SENATE AND THE HOUSE OF REPRESENTATIVES TO STUDY THE NEED FOR AND MEANS OF REVIEW OR REGULATION OF HOSPITALIZATION RATES AND CHARGES.

Whereas, the ultimate goal of our society to afford every citizen of North Carolina a healthy life cannot be met without the availability of quality hospital services; and

Whereas, charges for hospital services have tended to rise steeply during the past decade; and

Whereas, hospital charges have now reached such a level that they constitute a barrier to full access to health care for some of our citizens; and

Whereas, the Legislative Study Commission on Organization and Delivery of Public Health Services has recommended that a governmental commission study hospitalization rate charges and practices; and

Whereas, the Governor's Task Force on Health Care Financing has collected information regarding rate review and control in other states; and

Whereas, the citizenry of our State has become increasingly concerned about high hospital charges;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

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Section 1. The House Committee on Public Health and the Senate Committee on Public Health and Public Resources shall, jointly, make a study of the need for and possible means of reviewing or regulating charges for hospital services. This study shall include an analysis of the factors involved in the rapid rise of hospital costs, means of ameliorating future rises without review, supervision or regulation as well as possible means of exercising review authority, supervision or regulation.

Sec. 2. The Joint Committee shall report its findings and recommendations to the appropriate leaders of the House of Representatives and the Senate, at the earliest possible date, but, in any event, no later than the first day of December, 1973. The Joint Committee shall prepare a written report which shall be available to members of both houses at the next convening of the General Assembly, and in the event the finding warrants legislation, this will be prepared and introduced as soon as possible.

Sec. 3. This resolution shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. R. 1254

RESOLUTION 101

A JOINT RESOLUTION CREATING A STUDY COMMISSION ON RELATIONS BETWEEN PROFESSIONAL SCHOOL EMPLOYEE ASSOCIATIONS AND SCHOOL BOARDS.

Whereas, under present North Carolina law, school boards are not authorized to relate to any professional school employee associations or their representatives in regard to the many functions of the public school system; and

Whereas, 30 states have now enacted laws in this area, and legislation on this subject is pending in many other states; and

Whereas, a report from a study commission would be of considerable benefit to the General Assembly in considering legislation in this area; and

Whereas, both the North Carolina School Board Association and the North Carolina Association of Educators have requested that such a study commission be established;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. There is hereby created a Legislative Study Commission to consider legislation regarding relations between professional school employee associations and school boards and establishing orderly procedures governing relationships between them which are designed to meet the special requirements and needs of public education.

Sec. 2. The Commission shall be composed of 17 members, two of whom shall be members of the House of Representatives, appointed by the Speaker of the House, and two of whom shall be members of the Senate, appointed by the President of the Senate. The North Carolina Association of Educators shall provide the Governor with a list of nominees from which he shall appoint one teacher from each of the following categories: Early Childhood, Kindergarten through Grade 3; Intermediate, Grades 4 through 9; High School, Grades 10 through 12; one principal, one supervisor and one superintendent. The Governor shall also appoint one member from the State Department of Public Instruction, two members from the North Carolina School Board Association, one member

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representing the State-supported institutions of higher education, and one member representing the State-supported community colleges. The Governor shall also appoint one member who is a parent of a child in a public elementary school and one member who is a parent of a child in a public high school. The Commission shall elect a chairman and other officers from the membership of the Commission.

Sec. 3. The members of the Commission shall receive per diem, subsistence and travel allowances as other boards and commissions of the State while engaged in the performance of their duties. All expenses of the Commission, including the cost of preparing and printing its findings and recommendations, shall be paid from the Contingency and Emergency Fund.

Sec. 4. The Commission shall make its report to the Governor on or before January 15, 1974, and the Governor shall transmit the report to the 1974 Session of the General Assembly.

Sec. 5. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. R. 1256

RESOLUTION 102

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF
ROBERT MYRON CARR.

Whereas, Robert Myron Carr was born in Duplin County, North Carolina, on December 10, 1900, and died April 18, 1973, at the age of 72; and

Whereas, Robert Myron Carr served with distinction as a member of the House of Representatives of the North Carolina General Assembly representing Duplin County from 1951 until 1955; and

Whereas, Robert Myron Carr served on the Wildlife Commission from June 1955 until June 1965, serving as Chairman from February 1960 through February 1963; and

Whereas, Robert Myron Carr served his home County of Duplin as a member of the Duplin County Board of Education from May 1935 until January 1951, and as Chairman of said Board for many years; and

Whereas, Robert Myron Carr was a member and Past Master of the Wallace Masonic Lodge No. 595; and

Whereas, he was a member of the Wallace Presbyterian Church; and

Whereas, he was an ardent sportsman and charter member of the Wallace Deer Club and served as President of that organization for many years; and

Whereas, his legislative, civic, and charitable works were of great benefit to the citizens of Duplin County and North Carolina;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly of North Carolina wishes to record its appreciation for the life and memory of Robert Myron Carr, an able, useful, and loyal servant of his county, State, and nation.

Sec. 2. That the General Assembly extends its sympathy to the family of Robert Myron Carr for the loss of their loved one.

Sec. 3. That this resolution shall become a part of the public record of the 1973 Session of the General Assembly of North Carolina and a copy shall be

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duly certified by the Secretary of State and forthwith transmitted to the family of Robert Myron Carr.

Sec. 4. This resolution shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. R. 1265

RESOLUTION 103

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF EMERY B. DENNY.

Whereas, Emery B. Denny was born in Surry County, North Carolina, on November 23, 1892, and died in Raleigh on April 24, 1973; and

Whereas, he was educated in the public schools of North Carolina and at the University of North Carolina at Chapel Hill; and

Whereas, he was admitted to the practice of law in 1919, and had a distinguished career as a lawyer for more than 20 years; and

Whereas, he was appointed by Governor Broughton to be Associate Justice of the Supreme Court of North Carolina in 1942 and was re-elected three times to that office where he served until he was appointed by Governor Sanford in 1962 to be Chief Justice of the North Carolina Supreme Court, an office which he held until his retirement in February, 1966; and

Whereas, Emery B. Denny served his city, his county, his state and his nation in a host of other offices, including Mayor of Gastonia, President of the Gastonia Chamber of Commerce, Chairman of the Gaston County Democratic Executive Committee, Chairman of the Board of Trustees of the Gaston County Public Library, Chairman of the State Democratic Executive Committee, member of the Board of Trustees of the University of North Carolina and of the Southeastern Baptist Theological Seminary at Wake Forest, member of the Army Signal Corps in World War I, and many other positions; and

Whereas, Emery B. Denny exemplified the highest qualities of integrity and responsibility in both his public and private life; contributing quietly and effectively to the improvement and functioning of the society in which he lived, and elevating and enriching the lives of those with whom he was associated; and

Whereas, he is survived by his wife of over 50 years, the former Bessie Brandt Brown; a son, Emery B. Denny, Jr.; three daughters, Mrs. Lenoir Shook, Mrs. Wallace Ashley, and Mrs. Bailey Williamson; and eight grandchildren;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly of North Carolina expresses its high regard for the life and work of Emery B. Denny, and mourns the loss of one of its great citizens.

Sec. 2. The General Assembly extends to the family of Emery B. Denny its deepest sympathy in the loss of their husband and father.

Sec. 3. The Secretary of State is directed to transmit a certified copy of this resolution to the widow of Emery B. Denny.

Sec. 4. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. R. 1267

RESOLUTION 104

A JOINT RESOLUTION HONORING THE ACHIEVEMENTS AND SERVICE OF DR. CHARLES HADLEY STEVENS.

Whereas, Charles Hadley Stevens was born at Wilsons Mills, North Carolina, on January 10, 1892, the son of the late David Samuel Stevens and Mary Elizabeth Holt Stevens; and

Whereas, Dr. Stevens graduated from Buies Creek Academy and in 1917 entered Wake Forest College where he became a member of the debate team and a recipient of the Oratory Award; and

Whereas, after graduating from Wake Forest he entered upon seminary studies at Louisville, Kentucky, and thereafter did student pastoral work; and

Whereas, he distinguished himself as a chaplain in the armed services during World War I and later obtained an honorary degree from Bob Jones University; and

Whereas, Dr. Stevens entered upon the ministry and served in a dedicated manner at various pastorates in North Carolina among the most significant of which was the Salem Baptist Church in Winston-Salem where he was serving with distinction, dedication and devotion at the time of his retirement on January 10, 1972; and

Whereas, among the distinctive contributions of Dr. Stevens was his leadership of the Salem Baptist Church congregation in the establishment of the Salem Baptist Day School, the Piedmont Gospel Book Stores, the Merriwood Christian Camp and the Piedmont Bible College which became a superior force in the teaching of the Bible; and

Whereas, Dr. Stevens served with distinction as President of Piedmont Bible College and wrote in the field of Christian literature and contributed editorial sermons and doctrinal messages to religious publications; and

Whereas, Dr. Stevens throughout his long and distinguished career as a minister has gained the respect, love and admiration of his congregation and the gratitude of his church while retaining his humility and simplicity of life;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly of North Carolina does record its praise for the dedicated life, sterling character, Christian outreach and moral uplift exemplified by the life and ministry of Dr. Charles Hadley Stevens.

Sec. 2. A copy of this resolution shall be sent to the immediate family of Dr. Charles Hadley Stevens.

Sec. 3. This resolution shall be in full force and effect from and after its ratification by the General Assembly.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. R. 1330

RESOLUTION 105

A JOINT RESOLUTION TO HONOR THE 1973 SMALL BUSINESS MAN OF THE YEAR.

Whereas, the Small Business Administration of our Federal Government each year honors all small business owners during National Small Business Week, May 14-18, 1973; and

Whereas, in North Carolina there are over 100,000 small business concerns, some of which are individually owned, having just a few employees, while others have as many as 500 employees; and

Whereas, small businesses provide local employment, services, and community leadership and pay most of the taxes which support our local, State and Federal Governments; and

Whereas, the Small Business Administration selects from nominations, a Small Business Man of the Year for each state; and

Whereas, the 1973 Small Business Man for North Carolina is a resident of Mecklenburg County, a 1940 graduate of North Carolina State University, a holder of Scouting's Beaver Award, President of the Mecklenburg Boy Scout Council for three years, and a Past President of the Rotary Club of Charlotte who has served as Governor of Rotary District 767. He is a former member of Davidson College Board of Visitors, a member of his local Hospital Authority and the Charlotte Chamber of Commerce. He has served since 1942 as an Elder in the Presbyterian Church - U.S. He is an Adult Bible Class instructor, has served as a delegate to the General Assembly of the Presbyterian Church and was Chairman of the Laymen's Council for the 1972 Billy Graham Crusade in Charlotte.

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly of North Carolina honors and commends Mr. Charles A. Hunter, President of Hunter Jersey Farms in Charlotte, for services to his fellowman and congratulates Mr. Hunter on his selection as the North Carolina Small Business Man of the Year.

Sec. 2. A copy of this resolution duly certified by the Secretary of State shall be presented to Mr. and Mrs. Charles A. Hunter and to their children: Janet, Beth, Dolly, Hope, Chuck, and Ben.

Sec. 3. A copy of this resolution shall be delivered to The Honorable James E. Holshouser, Governor of North Carolina.

Sec. 4. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. R. 1337

RESOLUTION 106

A JOINT RESOLUTION CREATING A CITIZENS' COMMITTEE TO STUDY THE QUESTION OF LEGISLATIVE PAY.

Whereas, service in the General Assembly is requiring an increasing amount of the time of its members; and

Whereas, legislative pay in North Carolina is based upon a concept of limited part-time service by legislators; and

Whereas, service in the General Assembly is becoming an increasing economic burden which threatens to force many valuable and experienced legislators to retire voluntarily from the General Assembly; and

Whereas, incumbent legislators have a direct personal interest in the amount of legislative pay, which interest makes it difficult, if not impossible, for them to be completely objective in studying the question;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. There is hereby created the Citizens' Committee to Study the Question of Legislative Pay.

Sec. 2. The Citizens' Committee to Study the Question of Legislative Pay shall consist of twenty-two citizens of North Carolina to be selected as follows:

- 1 farmer appointed by the North Carolina Farm Bureau Federation,
- 1 farmer appointed by the North Carolina State Grange,
- 1 teacher appointed by the North Carolina Association of Educators,
- 1 labor union member appointed by the North Carolina State AFL/CIO,
- 1 banker appointed by the North Carolina Bankers' Association,
- 1 merchant appointed by the North Carolina Merchants Association,
- 1 medical doctor appointed by the North Carolina Medical Society,
- 1 manufacturer appointed by the North Carolina Association of Chamber of Commerce Executives,
- 1 engineer appointed by the Professional Engineers of North Carolina,
- 1 architect appointed by the North Carolina Chapter of the American Institute of Architects,
- 1 accountant appointed by the North Carolina Society of Accountants,
- 1 lawyer appointed by the North Carolina State Bar,
- 1 nurse appointed by the North Carolina State Nurses Association,
- 1 person appointed by the League of Women Voters,
- 1 person appointed by the North Carolina Federation of Business and Professional Women's Clubs, Inc.,
- 1 person appointed by the American Association of University Women,
- 1 person appointed by the North Carolina Secretaries

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Association,

1 person appointed by the North Carolina Citizens Association,

1 person appointed by the North Carolina Federation of Negro Women's Clubs,

1 person appointed by the North Carolina Press Association,

1 person appointed by the North Carolina Association of Insurance Agents, Inc.,

1 person appointed by the North Carolina Association of Broadcasters.

Immediately following the ratification of this resolution, the Legislative Services Officer shall send to each of the appointing organizations a copy of the resolution. The chairman of each organization shall, before September 1, 1973, notify the Legislative Services Officer of the name and address of that organization's appointee to the Committee. On September 1, 1973, the Legislative Services Officer shall transmit the names of the appointees to the Legislative Services Commission. If any organization has not submitted its appointment by September 1, 1973, the chairman and vice-chairman of the Legislative Services Commission shall jointly appoint a Committee member from the category represented by that organization.

Sec. 3. As soon as practicable after all members of the Committee have been appointed, the Chairman of the Legislative Services Commission shall call a meeting of the Committee for organizational purposes. The Committee shall elect a chairman and such other officers as it may deem necessary from among the membership of the Committee.

Sec. 4. The Committee shall conduct a thorough study of all facets of legislative pay, and shall deliver its report, with specific recommendations as to legislative pay, to the Legislative Services Commission by January 15, 1974, for transmission to the 1974 General Assembly.

Sec. 5. Members of the Committee shall receive no salary, but shall be paid travel and per diem expense allowances provided for State boards and commissions generally. Funds for the payment of such expenses shall be paid from the Contingency and Emergency Fund.

Sec. 6. Research and clerical staff assistance required by the Committee shall be provided by the Legislative Services Commission.

Sec. 7. This resolution shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. R. 1311

RESOLUTION 107

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF GUY ELLIOTT.

Whereas, Guy Elliott died on May 7, 1973; and

Whereas, he was born in Beaufort County, North Carolina, on May 10, 1895, and received his education in the Beaufort County Schools, Industrial Christian College in Kinston, North Carolina, and the University of North Carolina Law School, where he received his LL.B. degree in 1917; and

Whereas, in the death of Guy Elliott the State has lost a highly capable attorney who devoted his time, energy and talents to the betterment of the State, including service in the North Carolina House of Representatives in 1965

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and 1967; Judge Recorder's Court, 1920-1928; Lenoir County Attorney, 1933-1937; and Mayor, City of Kinston, 1945-1963; and

Whereas, Guy Elliott, in addition to his service to the State, actively participated in the life of his community, was an active member of the Kiwanis Club and served as Lieutenant Governor of the Seventh Division of the Carolinas District, Kiwanis Clubs in 1966; was a dedicated member of the Gordon Street Christian Church, where he was a Deacon, Elder and Sunday School teacher; and served as President, North Carolina Christian Missionary Convention; and

Whereas, the General Assembly desires to honor the memory of Guy Elliott and express its sympathy to the surviving members of his family;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That in the death of Guy Elliott, the State of North Carolina has lost one of its most able and conscientious citizens and public servants.

Sec. 2. That the General Assembly does hereby express its appreciation and gratitude for the life and career of Guy Elliott.

Sec. 3. That the General Assembly extends its sincere sympathy to the family of Guy Elliott in the loss of its distinguished member.

Sec. 4. That the Secretary of State shall cause a certified copy of this resolution to be transmitted to the family of Guy Elliott.

Sec. 5. This resolution shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

S. R. 868

RESOLUTION 108

A JOINT RESOLUTION ESTABLISHING THE ENERGY CRISIS STUDY COMMISSION.

Whereas, there has been a great deal of recent publicity devoted to the apparent approach of a serious petroleum shortage during this summer and in the coming decade; and

Whereas, last winter saw many areas of the country with closed businesses and schools because of shortages of petroleum and other fuels; and

Whereas, airlines have been unable to acquire all of the fuel they needed resulting in extra fuel stops and cancelled flights; and

Whereas, our North Carolina State Purchasing Department has been unable to contract for the State oil requirements; and

Whereas, a number of major oil companies are starting to ration supplies to their distributors; and

Whereas, we appear to be approaching increased use, higher prices, and shorter supply of gasoline and diesel fuel, and savings in our uses of these fuels is desirable; and

Whereas, on April 3, 1973, the Chase Manhattan Bank, in its regular review of the petroleum situation, said that the looming oil shortage could "tend to cripple the nation's transportation system"; and

Whereas, our North Carolina passenger and freight transportation is heavily dependent on private cars and trucks which are inefficient energy users compared to trains and buses, and by our tax structure and use of taxes we can affect this business; and

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Whereas, there has been a series of recent electrical power failures in the South that have caused problems of dramatic proportions, and a continuing reliable source of electric power is necessary for the well being of our citizens; and

Whereas, present limitations on providing natural gas to new industries limits the expansion of industry and may soon limit gas available for homes; and

Whereas, in efforts to conserve energy the federal government has changed the FHA Insulation Requirements and the states of California and Minnesota have changed their Building Codes to include better insulation; and

Whereas, there have been serious delays in construction and start up of new utility plants to serve our area, and there have been shortages of coal, oil, and gas for existing plants; and

Whereas, there has been much discussion of the potential effects of newly developed natural or synthetic fuels, such as: synthetic coal gas, solar energy, geothermal energy, and nuclear power; and

Whereas, North Carolina is entirely dependent on the import of energy sources such as gas, oil, coal, and atomic energy, and is thus highly sensitive to the United States and International energy situation; and

Whereas, the depletion of our domestic oil supplies and our increased oil usage will lead to much larger oil imports with implications to oil spills, port business, need for offshore super ports; and

Whereas, since energy availability influences the types of industry wanted, the population growth desired, and the type of transportation system needed, we must have information on future energy sources to guide our actions in these matters;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. There is hereby created the Energy Crisis Study Commission, to be made up of three (3) members appointed by the Speaker of the House of Representatives, three (3) members appointed by the Lieutenant Governor, and six (6) members appointed by the Governor. The Governor's appointees shall include one (1) representative of the liquid petroleum industry, one (1) representative of the natural gas industry, and one (1) representative of the electric power industry; there shall be no restrictions or limitation on his three remaining appointments. The Speaker and Lieutenant Governor may choose to appoint members of the General Assembly, but they are not required to do so. The Governor shall designate one of his six appointees to serve as Chairman.

Sec. 2. The first meeting shall be at the call of the Chairman of the Commission.

Sec. 3. The Commission's study shall include, but not limit itself to, consideration of:

- (1) Present sources of energy supply to North Carolina and the possibilities of their curtailment at levels below our needs; to answer the question, "Is the problem real to North Carolina?"
- (2) Possible changes in the cost of energy; the effects of curtailed supplies and higher prices for energy on the people and industry of North Carolina.
- (3) Measures that might be taken to minimize the impact of energy

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shortages on the people and economy of North Carolina; conservation, mass transit...

- (4) Other pertinent studies that are now underway; S.I.N.B., Ford Foundation, Federal Government...
- (5) Actions that have been taken by other states and cities; California and Minnesota building regulations on insulation, proposed New York legislation on labeling appliances with efficiency and electrical usage...
- (6) Interactions between environmental constraints and energy needs; sulfur content of fuel oil, limiting availability of oil...
- (7) Effects of land use planning on energy needs.
- (8) Possible impact of potential energy sources (such as solar, geothermal, controlled fusion) on the situation.
- (9) Effect of the energy crisis on fertilizer and other supplies for the Agricultural Industry, and on the demand for agricultural products.
- (10) Implications of the energy crisis on employment and wages, and thus on taxes and welfare.
- (11) Possible needs for citizen-industry-government educational programs on energy conservation and how to start such programs.
- (12) Effect of the energy crisis on the mobility of our citizens and on tourism.

Sec. 4. The Commission shall have the authority to employ clerical assistance, to make arrangements for professional staffing and consultants, to purchase supplies and equipment, and to call and interview witnesses.

Sec. 5. Any supplies or equipment not used by the Commission shall become the property of the General Assembly on termination of the Commission.

Sec. 6. Compensation and travel and expense allowance for Commission members shall be the same as for State Boards and Commissions under G.S. 138-6.

Sec. 7. Expenses of the Commission shall be paid out of the Contingency and Emergency Fund.

Sec. 8. On or before January 30, 1974, the Commission shall report to the General Assembly and thereafter cease to exist.

Sec. 9. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

S. R. 878

RESOLUTION 109

A JOINT RESOLUTION HONORING THE FORTY YEARS OF FAITHFUL SERVICE OF THE REVEREND ROBERT I. McCLUSKEY UPON THE ANNIVERSARY OF HIS BECOMING PASTOR OF THE CHRIST WESLEYAN CHURCH OF GREENSBORO, NORTH CAROLINA.

Whereas, Robert I. McCluskey became pastor of the First Pilgrim Church, now being Christ Wesleyan Church of Greensboro, North Carolina, on May 13, 1933; and

Whereas, Robert I. McCluskey not only has served his church continuously, unstintingly, and unselfishly over a period of 40 years, but has been a personal minister to hundreds of people throughout the City of Greensboro and Guilford County; and

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Whereas, Robert I. McCluskey has in addition to his ministry to his own church, carried on radio ministry to thousands of souls each Sunday morning from 1941 to 1956, and further extended his ministry to child evangelism, at the Greensboro Community Center and gave leadership, council and spiritual guidance to youth for Christ, as well as granting his loving care to the bereaved and to the sick in hospitals;

Now, therefore, be it resolved by the Senate, the House of Representatives, concurring:

Section 1. The General Assembly takes this occasion of the fortieth anniversary of the ministry of Robert I. McCluskey to honor the many years of service he has given to the good people of his community and State, and to commend him for his selfless service, and for touching the lives of so many in their hour of need and dependence upon him.

Sec. 2. A copy of this resolution shall be sent to Christ Wesleyan Church.

Sec. 3. This resolution shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

S. R. 906

RESOLUTION 110

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JAMES KEMP DOUGHTON WHO SERVED HIS STATE AND COUNTRY WITH HONOR, DEVOTION AND DISTINCTION.

Whereas, this body has learned with extreme regret of the death of the Honorable James Kemp Doughton of Alleghany County on March 31, 1973; and

Whereas, The Honorable James Kemp Doughton was born in Sparta, North Carolina, on May 18, 1884, son of the late Governor Rufus Doughton and Sue Parks Doughton; and

Whereas, The Honorable James Kemp Doughton received his education at Oak Ridge Institute and the University of North Carolina at Chapel Hill; and

Whereas, The Honorable James Kemp Doughton, upon completing his education, served in the office of the State Treasurer, served as the State Bank Examiner, the National Bank Examiner and the Chief of the Fifth Federal District, and served as Agency Manager of the Reconstruction Finance Corporation and Chairman of the Board of the Federal Land Bank; and

Whereas, The Honorable James Kemp Doughton returned to Sparta and was associated with the Northwestern Bank; and

Whereas, The Honorable James Kemp Doughton has been a distinguished citizen of his county, state, and nation having served Alleghany County in the House of Representatives from 1949 until 1959; and

Whereas, The Honorable James Kemp Doughton served as Speaker of the House of Representatives from 1957 until 1959; and

Whereas, The Honorable James Kemp Doughton was deeply interested in his county, state and nation and was ready at all times to render public service; and

Whereas, The Honorable James Kemp Doughton is survived by his wife, Mrs. Ivy Grace Doughton, two daughters, Miss Alice Doughton and Mrs. Josephine Gregory, and one son, J. Kemp Doughton; and

Whereas, the Joint General Assembly of North Carolina desires to commemorate the life of The Honorable James Kemp Doughton and his

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services to his county, state and nation and to express its deep sorrow sustained by his death;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That in the death of The Honorable James Kemp Doughton, the State of North Carolina, the County of Alleghany, and the Nation as a whole have lost an able, loyal and devoted citizen, and the General Assembly by this resolution wishes to give expression of its deep and sincere appreciation of his life and character and its gratitude for his public service.

Sec. 2. The Secretary of State is directed to forward a certified copy of this resolution to the members of his family at Sparta, North Carolina.

Sec. 3. This resolution shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

S. R. 568 **RESOLUTION 111**

A JOINT RESOLUTION DIRECTING THE DEPARTMENT OF TRANSPORTATION AND HIGHWAY SAFETY TO CONDUCT A MASS TRANSIT STUDY.

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The Department of Transportation and Highway Safety is directed to study and appraise the mass transit needs and alternatives for rapid inter-city travel in North Carolina. It shall make a report of its findings and recommendations, within one year of the adoption of this resolution, to the Governor for transmission to the General Assembly.

Sec. 2. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

S. R. 882 **RESOLUTION 112**

A JOINT RESOLUTION AUTHORIZING AND DIRECTING THE SECRETARY OF HUMAN RESOURCES TO COORDINATE NUTRITION PROGRAMS WITHIN STATE GOVERNMENT.

Whereas, the North Carolina Nutrition Survey revealed valid evidence of nutritional inadequacy among the citizens of North Carolina; and

Whereas, this serious problem can be most adequately and effectively dealt with through a mechanism for coordinating the many existing nutrition programs and activities of the State; and

Whereas, there is need for focusing greater interest, concern and expertise in the overall field of nutrition;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The Department of Human Resources is authorized and directed to:

- (1) Initiate communications among all State departments, agencies, and Universities conducting nutrition programs in order to develop

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- coordinated planning for optimum nutrition for the people of North Carolina.
- (2) Stimulate wider citizen concern for improved nutrition for the people of North Carolina through: (a) involvement of civic, professional, and religious organizations, (b) extensive use of mass media, and (c) all other appropriate means necessary to accomplish this purpose.
 - (3) Initiate, through appropriate agencies, programs to provide good nutrition for all children.
 - (4) Promote the establishment of positions and training for nutrition workers in local health programs.
 - (5) Encourage and assist in the incorporation of the science of nutrition into the curriculum for candidates for degrees in education, health professions, and social work.
 - (6) Obtain support and financial assistance from the public and private sectors to upgrade the nutritional status of the people of North Carolina.

Sec. 2. To assist the Secretary of the Department of Human Resources in carrying out these duties, the Governor shall appoint a Nutrition Advisory Committee, composed of eight members as follows: one from the field of agriculture, one from the field of economics, one from the field of education, one from the practice of medicine, one from the food industry, one from the field of nutrition, one from the field of social services, and one member at large. Each member shall hold office for a term of two years, commencing on September 1, 1973, and biennially thereafter and until his successor is appointed, except that the term of the members first taking office shall expire, as designated at the time of appointment, four at the end of the first year, and four at the end of the second year. Any person appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. Committee members shall receive per diem and necessary travel and subsistence expenses in accordance with provisions of G.S. 138-5. The Governor shall designate one member of the Committee to serve as Chairman at his pleasure.

Sec. 3. The Committee shall advise the Secretary concerning the execution of the duties stated above. It may request any information relevant to nutrition from all State departments, agencies and divisions and said departments, agencies and divisions shall comply with the request.

Sec. 4. This resolution shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

S. R. 896

RESOLUTION 113

A JOINT RESOLUTION HONORING THE SYLVA-WEBSTER HIGH SCHOOL BAND.

Whereas, the Sylva-Webster High School Band, under the direction of Robert E. Buckner, is one of North Carolina's outstanding bands and has gained for itself a reputation of excellence; and

Whereas, the Sylva-Webster High School Band is providing valuable musical experience for its members and meaningful county involvement for the many citizens whose support is required to maintain the band; and

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Whereas, the band was chosen to represent the State of North Carolina at the Fifty-First Annual Festival of States in St. Petersburg, Florida, during April 1972, and received national acclaim for its performance; and

Whereas, the musical excellence of the group is demonstrated by the fact that 21 of its members were selected by audition to play in All-State Band during the year 1972, and one student was selected as the outstanding graduating senior musician of the district; and

Whereas, the members of the band have distinguished themselves not only as fine musicians, but have also contributed to the academic excellence of the school; and

Whereas, the Marching Band has represented the State of North Carolina at the "Greatest Bands in Dixie Contest" in New Orleans and has won nothing but Superior ratings during the last three years of competition;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The outstanding achievements and contributions of the Sylva-Webster High School Band to Sylva, Webster, Jackson County, State of North Carolina and the nation are hereby recognized.

Sec. 2. The House of Representatives and Senate express their interest in and their appreciation to the Band and its accomplishments and do hereby congratulate the Band and its Director for their achievements.

Sec. 3. It is directed that a copy of this resolution, duly certified by the Secretary of State, shall be sent to Mr. Robert E. Buckner, Director of the Sylva-Webster High School Band.

Sec. 4. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.

H. R. 1336

RESOLUTION 114

A JOINT RESOLUTION CREATING A COMMISSION FOR THE STUDY OF THE LAWS PERTAINING TO THE SALE, POSSESSION AND CONSUMPTION OF INTOXICATING LIQUOR OF THE STATE OF NORTH CAROLINA IN ORDER TO MAKE RECOMMENDATIONS TO THE STATE ABC BOARD, AS WELL AS THE GENERAL ASSEMBLY.

Whereas, the sale, possession, and consumption of intoxicating liquor has been and will continue to be a difficult social, medical, and economic problem in the State of North Carolina; and

Whereas, these serious problems can be most adequately and effectively dealt with only through a mechanism of effective laws, rules and regulations; and

Whereas, the General Assembly has passed legislation authorizing a statewide election at the next general election on the sale of mixed beverages; and

Whereas, there is need for focusing greater interest, concern and expertise in the overall field of intoxicating liquor regulation;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

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Section 1. There is hereby created a Commission for the study of the laws of the State pertaining to the sale, possession and consumption of intoxicating liquor to be composed of 11 members and who shall be appointed as follows: four shall be appointed by the Speaker of the House, at least two of whom shall be members of the current House of Representatives, and at least one of whom shall serve as a member of the State Alcoholic Control Board, or if the Chairman of such board designates, a member of his staff. Four members shall be appointed by the President of the Senate, at least two of whom shall be members of the current Senate, and at least one of whom shall be a member of the staff of the Attorney General of the State of North Carolina. Three members shall be appointed by the Governor. A Chairman of the Study Commission shall be designated by the joint approval of the Speaker of the House and the President of the Senate.

Sec. 2. It shall be the duty of the Commission to study the laws of the State relating to the sale, possession and consumption of intoxicating liquor and to recommend such changes as it may deem advisable concerning these laws, to the end that such laws shall be more cohesive, better understandable and less ambiguous, to the end that the enforcement authorities and the general public will be more able to understand, enforce and abide by such laws. Furthermore, it shall be the duty of the Commission to study the rules and regulations promulgated by the State ABC Board and to make such recommendations as such Commission feels necessary.

Sec. 3. The Commission is authorized to employ such clerical and other assistants, professional advice and services, as may be deemed necessary in the performance of its duties.

Sec. 4. The members of the Commission shall be paid such per diem and travel expenses as are provided for members of State boards and commissions generally. The expenses of the Commission shall be paid from funds appropriated to the Department of Commerce.

Sec. 5. The Chairman of the Board of Alcoholic Beverage Control and its staff shall make their assistance and themselves available to the Commission to carry out the purposes of this resolution.

Sec. 6. The Commission shall submit its report by January, 1974, and once again by January, 1975, to the President of the Senate and the Speaker of the House for transmittal to the 1974 Session and 1975 Session of the General Assembly.

Sec. 7. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of May, 1973.

H. R. 1133

RESOLUTION 115

A JOINT RESOLUTION ESTABLISHING A JOINT LEGISLATIVE COMMISSION ON MEDICAL MANPOWER.

Whereas, the continuing statewide shortage of practicing physicians has been of persistent concern to the North Carolina General Assembly for many years; and

Whereas, the great shortage of primary care physicians continues to be of serious proportions across the State along with a severe shortage of all categories of physicians in the non-metropolitan areas of the State; and

Whereas, the several steps taken during previous sessions of the North Carolina General Assembly to expand medical education opportunities for North Carolina students and to increase the production of physicians to meet the statewide need have fallen far short of the necessary objectives, as pointed out in a recent report prepared for the North Carolina Department of Mental Health by the Social Research Section of the Division of Health Affairs of the University of North Carolina at Chapel Hill; and

Whereas, the aforementioned report documents that 60 of the 100 counties in North Carolina had more people per physician in 1972 than in 1963; that 82 of the State's 100 counties now have many more people per family physician than in 1963; that many thousands of young people have no access to a pediatrician in their county or in neighboring counties; and that health manpower in all categories is sadly lacking in the non-metropolitan areas of the State; and

Whereas, the recent Report of the Medical Study Committee of the Board of Governors of the University of North Carolina contains similar documentation of the severe continuing statewide shortage of physicians as seen in the fact that the national physician/population ratio is 138 physicians per 100,000 persons while in North Carolina it is 103 physicians per 100,000 persons, and that 87% of the State's 100 counties are far below the ratio for the State as a whole; and

Whereas, in keeping with the then projected eventual need for an additional four-year medical school in North Carolina by the Legislative Research Commission of the 1969 General Assembly and by the North Carolina Board of Higher Education in 1969 and in keeping with the action of the 1965 General Assembly which authorized the development of a two-year medical school at East Carolina University, the General Assembly of North Carolina in the 1971 Session appropriated funds to East Carolina University to develop and operate the first year of medical education within its authorized School of Medicine as "a step in development of an expanded medical school at East Carolina University"; and

Whereas, East Carolina University has responsibly proceeded to develop and operate this initial significant step, in cooperation with the University of North Carolina School of Medicine, while continuing the necessary planning toward a degree-granting medical school which will emphasize the education and training of primary care physicians and the utilization of qualified and interested community hospitals throughout North Carolina; and

Whereas, the East Carolina University School of Medicine has an announced admissions policy which states that it will admit only North Carolina residents to the study of medicine as long as the number of qualified

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North Carolina medical school applicants exceeds the available positions in the State-supported schools; and

Whereas, the Board of Governors of the University of North Carolina has retained the services of a group of out-of-state academic medical educators and administrators to evaluate the question of the need for another four-year medical school in North Carolina when this need has already been documented time and time again; and

Whereas, the leadership of the Board of Governors of the University of North Carolina has publicly stated that the aforementioned consultants will also be requested to determine the site for the development of said medical school if indeed they determine the need; and

Whereas, previous actions and the expressed intent of the North Carolina General Assembly clearly indicate its ultimate responsibility to insure that adequate medical manpower is available to all of the people of the State; and

Whereas, this responsibility cannot be met through exclusion of the North Carolina General Assembly in any study accomplished on the medical needs in the State, including the medical manpower needs of the people;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Speaker of the House and the Lieutenant Governor as the Presiding Officer of the Senate are authorized and directed to select and appoint, respectively, four persons from the membership of each chamber of the North Carolina General Assembly to serve as the Joint Legislative Commission on Medical Manpower.

Sec. 2. The duly constituted Joint Legislative Commission on Medical Manpower is empowered and directed to study and to review all pertinent reports and documents, as well as past and presently proposed legislative actions, related to the problem of the medical manpower needs of the State, and including specifically the anticipated report of the medical consultants group employed by the Board of Governors of the University of North Carolina; said report to be available to this Commission no later than September 1, 1973.

Sec. 3. In order to be aware of and duly responsive to the medical manpower needs of the people across the State, the Joint Legislative Commission on Medical Manpower is directed to hold a series of publicized public hearings on this issue at strategic locations throughout North Carolina.

Sec. 4. The Joint Legislative Commission on Medical Manpower after its careful study and deliberations are completed is directed to prepare and to present to the North Carolina General Assembly in January, 1974, a summary report of its findings and recommendations, including specific legislative proposals to accomplish a solution to the medical manpower problem.

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of May, 1973.

H. R. 1310

RESOLUTION 116

A JOINT RESOLUTION PROVIDING FOR ADJOURNMENT OF THE GENERAL ASSEMBLY ON MAY 24, 1973, AT 12:00 NOON TO RECONVENE ON JANUARY 16, 1974.

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. On Thursday, May 24, 1973, at 12:00 noon, both the Senate and the House of Representatives shall stand adjourned to meet again on Wednesday, January 16, 1974, at 12:00 noon.

Sec. 2. This resolution shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 24th day of May, 1973.

S. R. 947

RESOLUTION 117

A JOINT RESOLUTION HONORING THE PERSONAL COURAGE AND DETERMINATION OF THE HONORABLE GEORGE C. WALLACE, GOVERNOR OF ALABAMA.

Whereas, the Honorable George C. Wallace, Governor of Alabama, has established himself as a leader in both his state and the nation; and

Whereas, Governor Wallace campaigned vigorously for his Party's Presidential nomination in 1972 and carried his message in a forthright way to the people of the United States; and

Whereas, the people of North Carolina and the people of other states gave Governor Wallace a vote of support in each Presidential primary in which his name was entered; and

Whereas, on May 15, 1972, Governor Wallace was struck down by the bullets from a would-be assassin's gun; and

Whereas, Governor Wallace has since suffered intense pain and paralysis and has been forced to undergo much hardship in his valiant effort to recover from that vicious attack;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the General Assembly commends Governor Wallace for the tremendous personal courage and determination he has exhibited in his battle to overcome the effects of his serious injury.

Sec. 2. That the General Assembly congratulates Governor Wallace on his recovery from that injury, expresses its hope for his continuing health, and extends to him the best wishes of the people of North Carolina.

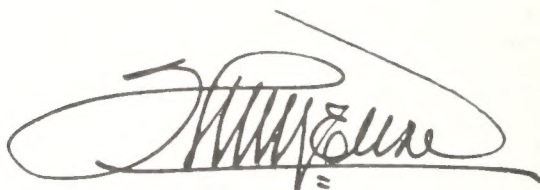
Sec. 3. That a certified copy of this resolution be transmitted by the Secretary of State to Governor Wallace.

Sec. 4. That this resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of May, 1973.

STATE OF NORTH CAROLINA,
DEPARTMENT OF STATE,
RALEIGH, OCTOBER 8, 1973

I, THAD EURE, Secretary of State of North Carolina hereby certify that the foregoing volume was printed under the direction of the Legislative Services Commission from ratified acts and resolutions on file in the office of the Secretary of State.

A large, stylized handwritten signature in dark ink, appearing to read 'Thad Eure', with a long horizontal flourish extending to the right.

Secretary of State

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